

INTELLIGENCE ACTIVITIES

SENATE RESOLUTION 21

HEARINGS BEFORE THE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

OF THE
UNITED STATES SENATE
NINETY-FOURTH CONGRESS

FIRST SESSION

VOLUME 3

INTERNAL REVENUE SERVICE

OCTOBER 2, 1975



Printed for the use of the Select Committee To Study Governmental
Operations With Respect to Intelligence Activities

U.S. GOVERNMENT PRINTING OFFICE

60-877 O

WASHINGTON : 1976

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INTELLIGENCE ACTIVITIES—INTERNAL REVENUE SERVICE

THURSDAY, OCTOBER 2, 1975

SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Tower, Mondale, Huddleston, Morgan, Hart (Colorado), Baker, Mathias, and Schweiker.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel, and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing will please come to order.

The Internal Revenue Service is one of the largest repositories of raw intelligence information in the United States. It has 700 offices spread across the country, and it employs over 88,000 people, including more than 2,500 special agents. The data collected by this behemoth lay bare the lives of 80 million individuals who file their tax forms each year.

In meeting our obligation to pay taxes on our earnings and thus support this country, we reveal to the IRS some of the most private and personal aspects of our lives. We tell the IRS for whom we work and how much money we make. We tell the IRS not only how many children we have, but additionally their educational achievements. We tell the IRS how we spend and invest our money, what charities we favor, and how we contribute to the churches we attend.

Upon examination of the 1040 income tax return, which the vast majority of us are required to file with IRS, one can determine if we suffered an extensive illness during the previous year, whether we bought eyeglasses, and the extent to which we traveled. In short, information we furnish the IRS constitutes an accurate profile of our lives and our lifestyles.

Moreover, the IRS conducts special tax audits and investigations to gather still more information. Unlike other intelligence agencies, the IRS can obtain financial information upon demand, without a subpoena.

The IRS is an intelligence agency in two respects. First, it is a vast reservoir of detailed personal information about Americans, and second, it conducts intelligence-collection activities through its own intelligence division.

The committee intends to explore both aspects of the IRS. In particular, we will examine closely ways in which other intelligence services have made use of the IRS as a lending library of tax information. This great storehouse of data on American citizens has proved to be irresistibly tantalizing to other Federal agencies, particularly the FBI.

The controls over the use of tax information which the IRS releases to other agencies are inadequate. The committee has found evidence indicating that the FBI has widely misused IRS tax information to disrupt political activists. Tax return confidentiality has eroded to the point where our Federal Government has turned these supposedly private documents into instruments of harassment used against citizens for political reasons.

If the law does not assure that tax returns filed by Americans will not be turned against them, our system of voluntary compliance with the tax laws faces a doubtful future. The committee will go into this misuse in detail next month, with our hearings on the FBI COINTEL PRO (Counterintelligence Program) activities.

Today, though, we wish to open this subject by looking at the IRS as a collector of intelligence.

Most Americans pay their taxes voluntarily and honestly. A few do not. Because of these few, the IRS has an Intelligence Division comprising 2,700 special agents, whose job is to investigate cases of criminal tax fraud.

The principal area of inquiry the committee will consider this morning with Commissioner Donald C. Alexander has to do with the scope of intelligence practices required by the IRS to do its job of collecting the taxes. We especially wish to learn to what extent the IRS intelligence capacity has been, and to what extent it should be, employed in the service of objectives which fall outside the strict realm of tax compliance. For example, a branch of the IRS, called the Special Service Staff [SSS], now defunct, had the task of investigating political activists. It was abolished by Commissioner Alexander shortly after he took office in 1973.

One wonders how an agency designed to collect revenue got into the business of defining and investigating political protesters. There were some 8,000 individuals and 3,000 organizations on the SSS list. The incredible overbreadth of the Special Service Staff target list can only be appreciated by hearing some of the SSS list of suspects.

Let me refer to some of the organizations that were on the list: the American Civil Liberties Union, the American Library Association, the Conservative Book Club, the Ford Foundation, the Headstart program, the NAACP, the Lawyers Committee for Civil Rights Under Law, the University of North Carolina, and approximately 50 branches of the National Urban League. Apparently, someone in the IRS or the FBI, and other outside contributors to the program, felt that these groups and individuals, plus many more, warranted special targeting for a concentrated tax-enforcement program. In essence, they were to be punished by the IRS for their political views.

Lists like this one highlight a most disturbing aspect of the IRS and other intelligence services. They seem to have an almost inexorable need to amass information for its own sake, and to find new reasons

for expanding intelligence collection—in the case of the IRS, reasons which may bear little relationship to the needs of a tax collection agency. Worse yet, the giant agencies begin to run out of control as administrators face the difficult task of knowing what is going on within their own mushrooming organizations. These are the dilemmas we wish to discuss today with the Commissioner of the IRS.

Before we move to the Commissioner, I want to defer to Senator Tower, if you would like to make an opening statement, Senator.

Senator Tower. Thank you, Mr. Chairman.

Amplifying on your statement that an abundance of intelligence data may pose a danger in and of itself, I am of the view that today's hearing moves the committee into another phase of our examination of the impact of governmental intelligence-gathering activities on fundamental concepts of privacy and individual liberties.

Agencies involved in clandestine collection on the international scene have acknowledged some incidental threats to the privacy and safety of American citizens. The rationale has been the need to maintain a vigilant watch on the national security.

Our examination of the Huston plan revealed a coming together of national security and concerns for enforcement of the domestic criminal laws. The potential threats posed by both areas of activity are real, and I do not seek to minimize our concern. We are indeed fortunate that deadly biological agents never left the governmental laboratories where they were stored.

Our Nation and fundamental freedom are the winners when, for whatever reasons, a comprehensive spying effort like the Huston plan is vetoed. The need for national security and criminal law enforcement are clearly legitimate concerns, and I firmly believe that needed legislative reforms can be fashioned to correct abuses while preserving necessary and proper intelligence efforts in these vital areas.

When I apply the same standards to the intelligence activities of the IRS, Mr. Chairman, I am far less sanguine on the issue of the need for such efforts by the tax collector. I am deeply concerned about the purpose of IRS intelligence-gathering activities. This concern is two-fold. First, there appears to be a belief that enforcement of the tax laws, as they relate to evasion of payment, is viewed as a matter to be handled completely within the IRS structure, as opposed to a situation warranting the attention of agencies charged with enforcement of the criminal statutes.

Evasion of taxes is a crime. However, I question the need for IRS surveillance of nightclub patrons as an investigative technique. I am uncomfortable with the notion that driving an expensive automobile to the parking lot of a stadium where a prize fight is being held should, standing alone, subject one to IRS scrutiny. In a nation which has always insisted upon the presence of reasonable grounds or probable cause as a basis for the focusing of its law enforcement apparatus upon the private citizen, there may be a real need for reassessing the propriety of vesting police powers in an agency which is, or should be, primarily concerned with collecting revenue. But at least these efforts purport to be in discharge of the agency's basic mission.

Of far greater concern to me is a second purpose for much of the IRS intelligence effort. That is the apparent reliance upon intelligence-gathering as a vehicle for protecting the image of the IRS. I refer par-

ticularly to the intelligence activities which were apparently initiated in response to congressional or executive branch inquiries questioning the vigor or evenhandedness of IRS efforts against prominent individuals and organizations.

We must not allow any agency of this Government to insure its existence or prestige by amassing files on citizens solely for the purpose of being in a position to represent that it has spied on the right as thoroughly as it has scrutinized the left, that it is as vigilant with nonprofit corporations as it is with gangsters. The invasions resulting from such actions far outweigh any need for assurances of IRS objectivity and only open wider the door that would make IRS an unwitting tool of those who would make improper or illegal use of such information.

Mr. Alexander, I hope that you might shed some light on the perceived need for IRS intelligence, if any, and the need for spending the capabilities of IRS in the field, as compared with other law enforcement agencies who might assist in ferreting out criminal tax evasion. And, finally, what, if any, additional guidance the Congress might legislate to insure that the revenue will be collected with minimum invasion of the taxpayer-citizen's rights.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Tower.

And now, Mr. Alexander, if you would please stand and take the oath.

Do you solemnly swear that all the testimony you will give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ALEXANDER. I do.

Mr. WHITAKER. I do.

The CHAIRMAN. Mr. Schwarz will begin the questioning.

TESTIMONY OF DONALD C. ALEXANDER, COMMISSIONER, INTERNAL REVENUE SERVICE; ACCOMPANIED BY SINGLETON WOLFE, ASSISTANT COMMISSIONER, COMPLIANCE; WARREN BATES, ASSISTANT COMMISSIONER, INSPECTION; MEADE WHITAKER, CHIEF COUNSEL; THOMAS J. CLANCY, DIRECTOR, INTELLIGENCE DIVISION; AND WILLIAM E. WILLIAMS, DEPUTY COMMISSIONER

Mr. SCHWARZ. Accompanying you is your Chief Counsel, Mr. Whitaker?

Mr. ALEXANDER. Yes, Meade Whitaker, Chief Counsel of the Internal Revenue Service. Mr. Chairman, I'd like to introduce some of the others who are with me, if I may. To the rear of Mr. Whitaker, on the far right, is Mr. Singleton Wolfe, our Assistant Commissioner for Compliance.

Senator TOWER. Why don't you have them stand so we can identify them?

Mr. ALEXANDER. To Mr. Wolfe's left is William E. Williams, the Deputy Commissioner of the Internal Revenue Service. And to Mr. Williams' left is Warren Bates, our Assistant Commissioner of Inspection. To the rear of Mr. Wolfe is Mr. Thomas Clancy, the Director of our Intelligence Division.

Certain of your specific questions may be better responded to by some of the gentlemen that I have introduced than by me, Mr. Chairman. Would you like to swear the group that I introduced?

The CHAIRMAN. Yes; I think if they are going to testify, they should be sworn.

Do each of you solemnly swear that any testimony you may give at this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WOLFE. I do.

Mr. BATES. I do.

Mr. CLANCY. I do.

Mr. WILLIAMS. I do.

The CHAIRMAN. All right, Mr. Schwarz.

Mr. SCHWARZ. Mr. Alexander, you took over as Commissioner when?

Mr. ALEXANDER. My commission dates from May 25, 1973. I was sworn in on May 29, 1973.

Mr. SCHWARZ. Now, the chairman and the vice chairman both made statements in which they indicated their concern about the use of the IRS as an intelligence-gathering arm of other agencies of the Government, and in which they indicated their concern about moving the IRS into activities other than tax enforcement.

The first question I have is a general question: do you share those concerns? And the second general question, have you tried to do anything about it?

Mr. ALEXANDER. First, I do share those concerns. Second, I have tried, I am trying, and I shall continue to try, to do something about it. I find nothing antithetical between effective law enforcement and responsible and legal law enforcement.

I find that the IRS is a large agency having large powers, and having a vast store of confidential information. This information, these powers, these resources, mean that the IRS has a great duty to conduct itself effectively but also responsibly.

We in the management of the IRS have been doing our best to cause the IRS to so conduct itself.

Mr. SCHWARZ. Yesterday, when we were talking in your office, you gave, as an illustration of what you thought had been an excessive tendency to concentrate on intelligence gathering as opposed to tax enforcement, the number of agents in the Brooklyn office that were devoted to those two parts of your work. Would you recount that, and what lesson you drew from it, and what you did about it?

Mr. ALEXANDER. On one of my early field trips, I visited the Brooklyn office, and I was told during that visit that we had some 27 agents engaged at that time in gathering intelligence and a far smaller number engaged in actually working cases. I believe those numbers related to a particular group of people and probably they did not cover all the special agents assigned to that particular district. But I was concerned about whether our sense of priorities was a sound one. I was concerned about effective use of resources. And we have a duty to use the limited resources that we have effectively in the vast job that we have.

And I was concerned also about effective tax enforcement, on the one hand, and preservation of individual rights, on the other. I pre-

viously had the same concern about the workings of the Special Service Staff, another example of the use, if you will, of the IRS and its people and its powers in a way that can at best be described as inappropriate.

We set about to see what we were doing, and why we were doing it, why we needed to be engaged in generalized intelligence-gathering, as contrasted with obtaining the specific information that we must obtain to supplement that which is given to us, or to correct that which is given to us. Many taxpayers comply with the law, as you pointed out, Mr. Chairman, but some do not. And we have an obligation to see to it that the tax burden is spread as the law requires.

To fulfill that obligation, we must gather information, but we need to gather only that which is related to that job of ours, of tax administration and tax collection, and we need to be cognizant of individual rights and the Constitution, in our efforts to gather it.

Senator TOWER. I think we do need this function. I think it is badly needed, to have an effective enforcement of the internal revenue laws, and I think our people are generally fine people doing a difficult job well. I think there have been some isolated instances of aberrations and departures from these principles, and I think we need to correct these instances and to control our operations for the future, rather than to eliminate the intelligence gathering.

Mr. SCHWARZ. I am sure there are going to be specific examples that people come to, but trying to set the framework at the outset, have you taken steps to cut back on what can be characterized as generalized intelligence gathering or finding out information at random about American citizens?

Mr. ALEXANDER. Yes. In fiscal year 1973, this generalized intelligence gathering cost the IRS and, therefore, the American taxpayers, almost \$12 million. That was reduced in fiscal year 1975 to \$4.3 million. These dollars are a measure of the reduction.

Mr. SCHWARZ. In a couple of your answers, you have referred to the powers, or large powers, of the IRS. Now, everybody knows the IRS collects taxes, but what did you mean by focusing on large powers? What powers does it have that other Government agencies may not have?

Mr. ALEXANDER. We have powers that other agencies do not have to obtain information, peremptory powers, powers to issue summonses, to require information to be furnished to us. We have further powers: powers to seize property; powers to terminate a taxable year, and then, by assessing the tax immediately, and taking collection action, take money from a taxpayer; the power to make a jeopardy assessment.

Now, these powers are necessary to tax enforcement, but because they are so great, because they are so peremptory, because they can be exercised by the IRS without the intervention of other agencies or courts, assuming we're acting in good faith, we have an added obligation to use them wisely and only when necessary.

Mr. SCHWARZ. You drew an important distinction there. did you not? Supposedly—although we have now seen evidence to the contrary—agencies like the FBI cannot enter somebody's house and get their papers, without having a search warrant approved by a court and going through some process of checking and limiting, whereas the IRS has the power to compel an individual to provide the most inti-

mate details about his financial life, peremptorily, as you say, or without going through other processes, of the courts, for example. Is that right?

Mr. ALEXANDER. Well, subject, of course, to the fifth amendment privilege. Where appropriate, we give a Miranda-type warning immediately to the taxpayer, in order to make sure that the taxpayer is aware of his or her rights. But we do have powers to call upon third parties, for example, to supply financial information about a taxpayer to us.

Mr. SCHWARZ. I have nothing further at this point, Mr. Chairman.

The CHAIRMAN. Mr. Smothers, do you have any questions at this point?

Mr. SMOTHERS. Mr. Chairman, just one brief area of inquiry.

I have been concerned, Mr. Alexander, and the committee has received information regarding how the IRS deals with its enemies, if you will, particularly the tax protestor groups. We have information indicating that there has been an effort made to infiltrate these groups, if you will, primarily based on their anti-IRS activities, including things such as efforts at physical destruction at your offices and the filing of reams of blank returns. Is it your view that IRS investigators should be used in this capacity, or is this a matter better handled by other investigative agencies like the FBI?

Mr. ALEXANDER. Mr. Smothers, there are instances where the use of the techniques that you have described would be necessary. Those instances are few indeed. I think that the IRS has a responsibility to see to it that those who attempt to defeat tax administration and tax enforcement do not succeed. And, accordingly, as to tax resisters, we have an interest, and shall, I think, maintain an interest in making their efforts fail. But we also have a duty in the fulfillment of this limited goal to live up to the constitutional principles and the law, because we cannot enforce the law properly by violating the law.

Mr. SMOTHERS. Mr. Alexander, my question goes to who should be involved in this enforcement? For example, if we had dissidents bombing the State Department, then we would certainly ask the Federal Bureau of Investigation to look into that. We would attempt to apprehend the culprits. Should the IRS be devoting its energies to the essential task of catching criminals, criminals whose activities are really unrelated to your fundamental mission?

Mr. ALEXANDER. No.

Mr. SMOTHERS. Would it then be your recommendation that these efforts not be dedicated to these kinds of functions?

Mr. ALEXANDER. It is my recommendation that the efforts that the IRS makes in this general area, as well as the limited area that you first described, should be limited to those necessary to achieve our mission of administrating and enforcing tax laws, rather than other goals. This accounts, I might suggest, for the action that I took that the chairman described with respect to the Special Service Staff. That also accounts for certain other actions that the IRS has taken.

Tax protesters are indirectly related to tax administration, in that those who preach resistance to the tax laws are likely to practice resistance as well. We do have an obligation to see to it that the tax laws are enforced, and we are concerned about scofflaws. We should not be overly concerned, however, so as to devote undue resources to

this task, or to go about this task in a way in which our enforcement techniques descend to the techniques of some of those who are opposed to taxes.

Mr. SMOTHERS. Thank you. I have nothing further at this time, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Commissioner, when you became the Commissioner, were you informed by the staff of the IRS about the existence of this Special Service group?

Mr. ALEXANDER. Mr. Chairman, I had heard about the Special Service Staff from press reports prior to the time that I took office. The day after I took office, or the day after I was sworn in on May 30, I had a meeting in my office with respect to the Special Service Staff and its then activities.

The CHAIRMAN. And was a full disclosure made to you at that time of the activities of the Special Services Staff?

Mr. ALEXANDER. In my opinion, not.

The CHAIRMAN. In your opinion not?

Mr. ALEXANDER. Right.

The CHAIRMAN. What is the basis for that opinion?

Mr. ALEXANDER. The basis for that opinion, Mr. Chairman, is my recollection—which I consider entirely correct—that I was not told on May 30 of a fact which some others in the room knew; that a memorandum describing activities which are antithetical to proper tax administration was, indeed, an expression of the National Office of the Internal Revenue Service about the attitudes and the activities of the Special Service Staff. That memorandum suggested that the IRS should concern itself with rock festivals, where youth and narcotics may be present. I find nothing in title 26 of the Internal Revenue Code to suggest that we should have a concern about rock festivals.

I find that particular illustration, as well as the rest of that memorandum, to be antithetical to our job. And when I found out it was a National Office memorandum rather than an aberration in the field, I ordered the Special Service Staff abolished.

The CHAIRMAN. When was this memorandum which defines the purposes and objectives of the Special Service Staff called to your attention?

Mr. ALEXANDER. It was called to my attention, as a National Office document at the end of a dialog that I had with the then-Regional Commissioner of our North Atlantic region. I was trying to find out why on earth the North Atlantic region issued this memorandum, and did they really believe this sort of stuff; and if they did, I wanted to correct their attitude.

I finally learned, as I recall, on August 8 of 1973—

The CHAIRMAN. Was that 4 months after you took office that you first learned of this memorandum defining the functions of the Special Service Staff?

Mr. ALEXANDER. Almost 4 months.

The CHAIRMAN. Almost 4 months.

Calling your attention to the memorandum, which I think for the Senators' purposes is—

Mr. SCHWARZ. It is marked exhibit 1.¹

¹ See p. 39.

The CHAIRMAN. Do you have that, Mr. Commissioner?

Mr. ALEXANDER. Yes I do, Mr. Chairman.

Mr. SCHWARZ. Mr. Alexander, it is exhibit 1.

The CHAIRMAN. Now, I read from the memorandum the following excerpt:

Functioning under the Assistant Commissioner (Compliance) a special compliance group was established in August 1969 to receive and analyze all available information on organizations and individuals promoting extremist views and philosophies.

Now, stopping right there, do you think that it is the proper business of the IRS, which is set up to collect taxes for this country, to receive and analyze all available information on organizations and individuals promoting extremist views and their philosophies?

Mr. ALEXANDER. No.

The CHAIRMAN. Reading further from the memorandum: "These organizations and individuals can be generally categorized as, (1), Violent Groups"; and then, "in category (2), there is ample evidence of activities involving so-called Non-Violent Groups, who by alleged peaceful demonstrations oftentimes deliberately initiate violence and destruction."

Now, stopping right there, even if that were so, does it not follow that protection against violence and destruction is properly the work of the police—including the Federal police, the FBI—and not the concern or the work of the Internal Revenue Service?

Mr. ALEXANDER. Yes.

The CHAIRMAN [continuing].

Included are those who publicly destroy and burn draft cards, destroy Selective Service office records, participate in an [sic] organize May Day demonstrations, organize and attend rock festivals which attract youth and narcotics, aid in funding the sales of firearms to Irish Republican Army, Arab Terrorists, et cetera; travel to Cuba, Algeria, and North Vietnam in defiance of existing statutes relating to seditious acts; inciting commotion and resistance to authority by encouraging defectors in the Armed Forces to enter into alliances to subvert this nation.

Now, leaving aside whether or not the actual names of individuals and organizations that were placed on this watch list by the IRS—whether or not they fit in this category, that whole category has nothing to do with collecting taxes, does it?

Mr. ALEXANDER. It has nothing to do with it, except insofar as two things are concerned: First, if an organization claiming tax exemption is not entitled to it, it is our obligation to do something about it, and it is our obligation to determine whether an organization claiming that status is entitled to it. Second, if someone deducts a contribution to an organization that is not tax-exempt, and therefore not entitled to receive deductible contributions, it is our obligation to do something about that.

Beyond that, we have no concerns in these areas, and these areas are not a normal part of tax administration.

The CHAIRMAN. But this memorandum went way beyond that.

Mr. ALEXANDER. Way beyond that.

The CHAIRMAN. Way beyond that, and it even went—in actual practice—the Special Service Staff went way beyond these groups. I think it must have. We look at some of the individuals; what did columnist Joseph Alsop have to do with rock festivals?

Mr. ALEXANDER. I have no idea, Mr. Chairman.

Senator TOWER. That is an intriguing thought, Mr. Chairman.

The CHAIRMAN. Or funding the sale of firearms for the Irish Republican Army, or violating sedition laws by traveling to North Vietnam? I mean, what was Joseph Alsop's name doing on that list? Do you know?

Mr. ALEXANDER. I have no idea, Mr. Chairman. I have no idea why my name was on the IGRS (Information Gathering and Retrieval System) file.

The CHAIRMAN. What about Mayor John Lindsay? Do you know what connection he had with any of these organizations that would justify putting his name on the list?

Mr. ALEXANDER. No, I do not.

The CHAIRMAN. What about Nobel Prize winner Linus Pauling, who just last week received from the President of the United States the National Science Medal? Do you know why he was on this list to have his taxes looked at, this list of violent and nonviolent activist groups?

Mr. ALEXANDER. No.

The CHAIRMAN. What about Senators Charles Goodell and Ernest Gruening? Do you know why they were on the list?

Mr. ALEXANDER. No.

The CHAIRMAN. What about Congressman Charles Diggs? Is there any reason why he was put on a special watch list for examination of his taxes?

Mr. ALEXANDER. No.

The CHAIRMAN. Well, there are other names here that are equally puzzling—writer Jimmy Breslin, rock singer James Brown—

Mr. ALEXANDER. That would come under the rock singer category. [General laughter.]

Mr. ALEXANDER. There was apparently quite a concern about that. I suppose some of our people did not like rock music. Now, I share that view. I don't like rock music. But I don't think it has anything to do with tax enforcement or tax administration.

The CHAIRMAN. What about civil rights leaders Aaron Henry and Jesse Jackson and Coretta King?

Mr. ALEXANDER. The same answer, no.

The CHAIRMAN. Or actress Shirley MacLaine? Was that because she went—did she go to North Vietnam at one point? I do not think so. You do not know why she was on it?

Mr. ALEXANDER. I don't.

The CHAIRMAN. Well, when you discovered names of people and organizations that even went beyond a memorandum, which you yourself have described as unrelated in its thrust to tax collection as such, what did you do?

Mr. ALEXANDER. I ordered the Special Service Staff abolished. That order was given on August 9, 1973. It was implemented by manual supplements issued on August 13, 1973. We held the files. I ordered the files to be held intact—I'm not going to give any negative assurances to this committee—in order that this committee and other committees could review these files to see what was in them, and see what sort of information was supplied to us on these more than 11,000 individuals and organizations as to whom and on which files were maintained.

I suggested, Mr. Chairman, that at the end of all of these inquiries, I would like to take those files to the Ellipse and have the biggest bonfire since 1814.

The CHAIRMAN. Well, I concur in that judgment. I would only say this to you: in a way, it might be a more important bonfire than the Boston Tea Party when it comes to protecting individual rights of American citizens. I am glad you feel that way. I am glad you took that action.

What concerns me, and what should be of concern to this committee, is that there is apparently no law on the statute books restricting the extent to which the IRS can be used as the vehicle for harassing or investigating citizens who are engaged in other kinds of activities quite unrelated to the question of their tax liability. Though in your hands as Commissioner these abuses might be stopped, in the hands of a less scrupulous Commissioner they could be reinstated. And I think it is the work of this committee to write the laws in such a way that that will not happen in the future.

Mr. ALEXANDER. Mr. Chairman, there is one provision in the Internal Revenue Code that does provide a restriction on part of the improper activities that you have described. In section 7214 of the Internal Revenue Code, there is a provision making it a crime for an Internal Revenue employee to knowingly demand from a taxpayer a tax other than what the law reasonably requires. That does not go all the way. What the IRS, the administration, and Congress need to do to safeguard the future is to have sound laws, sound procedures, good people, continual oversight, and continual vigilance by the press.

The CHAIRMAN. I agree with that. We will be working on recommendations after we conclude this investigation that will help protect us against abuses of this kind in the future. And we would solicit your own recommendations in that regard. You tried, as Commissioner, to put a stop to these activities, and we naturally welcome any recommendations you might have to make. Senator Tower?

Senator TOWER. Thank you, Mr. Chairman.

First, I would like to commend Mr. Alexander for what he has done to cure some of the problems that we found within the IRS. Mr. Alexander, who decides when to utilize the intelligence apparatus of IRS, and how much discretion do the district directors exercise in determining when to employ this capability, and against whom it should be targeted?

Mr. ALEXANDER. Senator Tower, I will respond generally, and then I would like for Mr. Wolfe, who has been in Internal Revenue far longer than I, to supplement my answer.

Our special agents are frequently called in by revenue agents in our audit activity, or by revenue officers in our collection activity, when the revenue agent or revenue officer finds reason to believe, in the course of his audit investigation or his collection investigation, that fraud has been committed. This accounts for the greater part of investigations made by our special agents in our Intelligence Division.

Some cases, however, arise by reason of communications that we receive, from informants or otherwise, which indicate that tax evasion has been committed, and that the chances of fraud warrant the expenditure of time and money in an investigation. Some cases are developed

by the Intelligence Division, acting as such, after it has collected information tending to establish the likelihood of tax evasion. And, of course, our people also work closely with the Department of Justice lawyers, and other agencies, in the Strike Forces, of which we now have 17 around the country, whose activities are largely directed toward organized crime.

The decision would be made as to whether to go forward with an investigation on a decentralized basis in our districts by our field managers, not necessarily the division chief or the branch chief or the group manager, as I understand it. Now, Mr. Wolfe, would you care to supplement that answer?

Mr. WOLFE. Mr. Tower, 60 percent of the work that our Intelligence Division engages in comes from referrals, either from the Audit Division of the Internal Revenue Service or the Collection Division. The rest of it comes through informants or through information that our special agents gather in their jobs.

Every investigation must be approved by the group manager of the group to which the special agent is assigned. We have very strict rules concerning the use of any investigative techniques. They must not only be legal but they must have the approval of the chief of the intelligence division of that district.

All of these people are then under the direct control of the District Director of the district to which they are assigned. They also are provided with very good manual instructions. In other words, the manual instructions under which they are to operate are prepared here in Washington.

They are also provided with handbooks, which are distributed from here in Washington, outlining the procedures which they are to follow. So those are, in general, the means by which we operate.

Senator TOWER. Thank you.

Mr. Alexander, who sets the limits for determining when to employ undercover agents and when to accept and use information from an informant? For example, our committee has been told that undercover agents at a meeting of tax protestors listened to the protestors' legal defense plans and then passed that information on to the U.S. attorney's office.

This would appear to me to be an abuse of IRS intelligence capability. I would appreciate your comment on the propriety of tactics of that kind.

Mr. ALEXANDER. I agree with your conclusion, Senator Tower. I do not think that IRS undercover agents should interfere with the right of anyone to counsel. And the incident that you mentioned is of considerable concern to me.

We have tightened up materially on the use of undercover agents. We now have, I believe, only two undercover agents in the country at this particular time doing this. And we have called for strict controls and decisions at the top level before further undercover projects may be undertaken.

Senator TOWER. Mr. Alexander, the data bank of IRS contains a great deal of information in addition to the tax return documents that are supplied by the taxpayers. Why is so much additional information necessary if no question has been raised concerning returns filed by a given individual?

Mr. ALEXANDER. We need to transcribe and retain a vast amount of information in our computer centers in order to do our job of seeing to it that people pay the correct tax, no more, no less, that we know how much they pay, that we know what the essential characteristics of their return are, so that we can select the returns for audit on an objective basis, which are most likely to need audit.

And so if someone finds he or she has overlooked something and files a claim for refund with us at a later time, we are able to process that claim; where if someone at a later time decides to use the benefits of the income averaging provisions, for example, we are able to determine from back years what that person's reported income was, in order to test to make sure that that person is entitled to the benefit which is being claimed. So we need to retain in our data banks, and use very carefully, information from tax returns. But by no means does this information that we transcribe contain the entire mass of information contained on an individual's tax return.

In the first place, it is not cost effective to transcribe and retain that which is not strictly necessary, and second, we want to maintain minimum information on computers, having in mind both the benefits of computers and also the risk of computers.

Now, we do have in our intelligence gathering a computerized system which we installed in 1973, modified in 1974, and curtailed earlier this year, and now I am making sure that it is limited to matters which should properly be maintained on a computer. That is a different system from what I have just described, Senator Tower.

Senator TOWER. Mr. Alexander, is there periodic destruction of information other than the returns of taxpayers? For those taxpayers whose returns have not been called into question, do you periodically destroy this information?

Mr. ALEXANDER. Yes, we do, sir.

Senator TOWER. Thank you, Mr. Alexander. Mr. Chairman.

The CHAIRMAN. Thank you, Senator Tower. Senator Mondale?

Senator MONDALE. Thank you very much, Mr. Chairman.

Commissioner, may I first say that I find your attitude and approach very, very refreshing. I wish to say that.

As I look at this problem that you were confronted with when you assumed office, what you were seeing, apparently, was one part of a much broader program to have a secret Government counterintelligence capability on persons and organizations thought to be dangerous on some ill-defined basis ranging from war unrest and civil rights demonstrations, to rock festivals, just about everything. In any event, the net swept practically everyone, Joseph Alsop to Sally Quinn. That is what you found when you came in as Commissioner of Internal Revenue. Is that correct?

Mr. ALEXANDER. I would not want to make it that sweeping, Senator Mondale. The Special Service Staff involved only eight people in the IRS. It did collect information on more than 11,000 individuals and organizations. It did not conduct audits. It did send information out to the field for audit and collection action. But I don't think it should be considered in any way illustrative of the Service as a whole. I think the Service held up well in resisting that.

Senator MONDALE. I did not want to suggest that I was getting at something else. My question was a broader one directed not just at

IRS but at other agencies which may have been involved directly and indirectly with this counterintelligence capability developed in various agencies in the Federal Government, of which we have seen some examples here.

Mr. ALEXANDER. Yes; I think there was a syndrome at that time. I would like to add that I greatly appreciate what you have said when you opened your questions. There are some, apparently highly vocal, that disagree flatly with your statement of approval of what I have been trying to do.

Senator MONDALE. No doubt. I would like to return to that point I raised in my first question, because I think it is central to understanding what it was that you were dealing with and the more fundamental issues that this committee must deal with.

I think what you saw was just a part of a broader, more basic project by which various agencies—the FBI, the CIA, and even the White House—decided that the criminal laws weren't adequate to deal with the threat to this nation and that therefore they needed a new tactic. That tactic was really borrowed from our tactics overseas against mainly Communist threats, called counterintelligence. Without any probable cause to believe a crime was being committed and taxes being unpaid, we would throw out a huge net; we would open mail, even though we did not know what was in it, and intercept communications with no grounds, thinking we might find something. We would send out Internal Revenue agents to look at people's taxes, not because we thought they weren't paying taxes, but because we might find out something. It is that concept of counterintelligence turned in on the American people which I think you had to deal with. That was a piece of it, because the IRS was getting these requests, as I understand it, from the FBI, from the CIA, and even from the White House, to investigate these people, and the question is why, since it was unrelated in most cases to taxes. The answer is because of a fundamental philosophy that the only way to protect this country was to start spying on a broad cross-section of Americans thought to be dangerous by someone somewhere in the bureaucracy without legal authority, without definition, without any restraints and laws. Is that accurate?

Mr. ALEXANDER. There certainly was a feeling of that kind, Senator Mondale. And this may well have been a cause, if not the cause, of such things as the Special Service Staff. Some perceived a need to accomplish a particular result, fill a void in the law, a void in capability to enforce a law. And IRS is a convenient vehicle, in the eyes of some, to fill the void. If a law is absent that someone wishes were there, there is always a tax law. If the people were absent that someone wishes were there, there are always the tax people.

Senator MONDALE. All right. Now do you agree with me that these tendencies of ill-defined counterintelligence activities, secretly pursued, without legal restraints, constitute tendencies that could destroy American democracy, if unrestrained?

Mr. ALEXANDER. If unrestrained, yes.

Senator MONDALE. So this is a very serious and profound matter of continuing a vital, uninhibited democracy.

Mr. ALEXANDER. It is.

The CHAIRMAN. Senator Mondale, may I just say at that point it has just been called to my attention, this is how the FBI greeted the IRS program we are discussing. I have a memorandum here that was

written by Mr. Brennan, directed to Mr. Sullivan, in which he made the following comment as to the FBI's reaction [exhibit 2¹]. "A concentrated program of this nature, if properly implemented, should deal a blow to dissident elements. This action is long overdue." That just underscores the point that Senator Mondale made. The purpose had nothing to do with taxes. The purpose was to use a tax collecting agency to strike, in the words of Mr. Brennan, "a blow to dissident elements."

Senator MONDALE. Now, happily, what we have here is a Commissioner—and I hear this from all sources—who once again believes in the law and resisting these kinds of pressures. But can you be sure that these pressures have, in fact, been frustrated completely under your administration, and is there anything to guarantee that it won't happen again?

Fundamentally, I guess what we are up against is this: If you have a President and people around who are paranoid enough to believe that we need this illegal, spooky capability of spying on the American people, how do agencies such as yours exist? How do you say no to a President?

Mr. ALEXANDER. I would suppose with extreme difficulty and some trepidation. Luckily, I have not had to say no to a President because I have not been asked to do anything illegal and I won't be by President Ford.

Now you asked several questions—

Senator MONDALE. Let us just take President A and President B and Commissioner B 10 years from now. I don't want to get into personalities, but we have seen so much evidence of orders going down directing subordinate commissioners and officials and the rest to do things that are illegal and very, very dangerous. I think one of the questions we have to answer, if possible, is how do you say no to that kind of pressure emanating from the White House and from the highest officials in American Government?

Mr. ALEXANDER. You have to be ready to do what I have stated several times that I would do. And what I absolutely would do. If I were asked to do anything improper, I would refuse to do it. The requester then would have two choices. One, to agree with my refusal. The other, to remove me from office. Now, I don't think that future commissioners should be subject to this particular difficulty. Particularly when a commissioner is new in office, the commissioner may think of all the great things that he or she is going to achieve and be concerned about the ability to stand up to an improper request. I think future commissioners, as I have testified before, should have 5-year terms of office. Now you asked me whether I am sure that the attitudes and actions that we have been discussing this morning have pervaded the entire IRS. I am not. I wish I could give that assurance, I cannot.

Senator MONDALE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Mondale.

Mr. SMOTHERS. Mr. Chairman, Senator Goldwater has an opening statement and some questions [see questions, p. 104] he would like submitted for the record.

The CHAIRMAN. Without objection it is so ordered.

¹ See p. 42.

STATEMENT OF SENATOR BARRY GOLDWATER

The Internal Revenue Service receives more information from more people about more private affairs than any other agency in the United States Government.

And therefore, it has in its hands tremendous power to harass and intimidate American citizens.

It seems that nearly everybody that files a tax return with the IRS can assume that someone else will have access to it. Tax returns have shown up in the hands of insurance adjusters, private detectives, county clerk offices and even have been printed in newspapers.

Even though leaks that allow these returns to be distributed around may not be the fault of the Internal Revenue, the right of the taxpayer to privacy is being eroded because of it. In fact, the IRS is becoming a public lending library of private information.

Out of 81 million tax returns filed in 1974, about 69 million were furnished to State authorities in 38 States. As surprising as these numbers sound, this is a routine practice and it would be possible for all 81 million returns to be available for inspection if the remaining 12 States wanted them.

These returns have been provided to State governments with little or no control over the information. And, this may account for speculation over the years that tax information has been released during statewide political campaigns.

Even the jury process has not been exempt from IRS meddling. Jurors' tax returns have been audited.

Combine the power of the IRS with modern computer technology and the door is open to wholesale abuse of privacy and the humbling of proud and honest citizens.

Our tax system is based upon voluntary cooperation. That cooperation will erode and fade away, if the unconcerned bureaucrat uses his mighty computer to harass our friends and neighbors.

The CHAIRMAN. Thank you, Mr. Smothers.

Senator Mathias is next.

Senator MATHIAS. Thank you, Mr. Chairman.

Commissioner, I think we ought to try and get the record in as accurate shape as we can here. When you abolished the SSS, had you become aware of the circumstances under which it was created?

Mr. ALEXANDER. No; I was aware of some of the circumstances, but by no means aware of the circumstances as later developed and the details as later developed.

Senator MATHIAS. Had you been told that Mr. Huston, who appeared earlier before this committee, had been critical of the IRS in June of 1969 because it was not being active enough in investigating some of the organizations that were later investigated.

Mr. ALEXANDER. I think I heard something about the Huston plan, and of course Mr. Dean had testified.

Senator MATHIAS. Of course, this interest on the part of Mr. Huston predated the Huston plan by several years. Were you also aware that the Senate Permanent Subcommittee on Investigations had expressed a great interest in the IRS files on activist organizations and had been very critical of the IRS because it was not doing enough in this area?

Mr. ALEXANDER. Yes; I was generally aware of that.

Senator MATHIAS. And that in fact the SSS was established on the very day that Mr. Green testified before the Senate Permanent Subcommittee on Investigations and after he had been roasted by the committee because the IRS hadn't really been active enough.

Mr. ALEXANDER. I think I learned that later. But I am quite concerned about pressures from all sides.

Senator MATHIAS. Well I think you ought to be concerned by pressure from all sides. I think the whole purpose of this effort that we are making now is to insulate the IRS and other agencies from those pressures. The pressures can come from the Congress. They did come from the Congress in 1969 as well as from the White House. And I think, in considering what we are going to recommend to the Senate and to the House in the way of remedial legislation, we ought to remember that Congress itself was contributing pressure in the wrong direction in 1968 and 1969. So we have to provide against mistakes that we and our successors will make, as well as against mistakes that future Presidents may make, in trying to put the IRS and other agencies to improper uses.

There has been some conversation here this morning about informants. And I wonder if you could tell us exactly how you use informants for intelligence purposes. Do you still pay them a bounty?

Mr. ALEXANDER. I would hesitate to use the word bounty, but section 7623 of the Internal Revenue Code does provide for IRS paying for information that would aid the tax system. There are several types of informants. There are those who have grudges and want to do something about them and have no idea of monetary reward. There are those who supply information in a particular instance and would not only like to satisfy whatever grudge they may have but would like to gain a reward as well.

Senator MATHIAS. It is almost as sweet, not quite but almost as sweet, as a tax refund for yourself if you can be sure your neighbor is paying as much as you are, is that not right?

Mr. ALEXANDER. I suppose it would be. Sweetness is, of course, in the eyes of the beholder.

Senator MATHIAS. Bittersweet.

Mr. ALEXANDER. It may be bittersweet to the neighbor, but some are concerned not only about what they pay but about what others pay. And the law does provide—although we do not make mass efforts to encourage informants—for payments for information of value in tax administration. And finally we get to the third type of informant. And that is the Sarah Jane Moore type, if I may use a name that has been in the papers lately, a paid informant, an informant regularly furnishing information to a law enforcement agency and regularly being paid for that information.

This is, I am told, a very effective law enforcement technique and a technique very widely used. It is also a very dangerous technique and a technique that must be very carefully controlled.

Senator MATHIAS. That brings me to the question of control. Is this controlled in accordance with a centralized system or does each regional office, area office, control the informants, set up the standard of payments, and generally set out the program?

Mr. ALEXANDER. This last type of informant, the confidential informant seeking payment, frequently on a reasonably regular basis, for information furnished to us, is now controlled in the national office. Mr. Wolfe controls this. We have instituted tight controls in the IRS. We did not have these controls before, Senator Mathias, and this has accounted for some of our problems.

Senator MATHIAS. It was very decentralized in the past?

Mr. ALEXANDER. Well, decentralized if you will, uncontrolled if you will. I am not certain that the question of control is governed by centralization versus decentralization. We operate on a decentralized basis as, indeed, we think we must. Our job is largely tax administration, so we are unlike law enforcement agencies whose jobs are strictly law enforcement. Law enforcement is ancillary to our major job. Our major job, as we see it, can best be performed free of political influences, performed objectively and efficiently, on a decentralized basis. And we have had the same general relationships, the same general system since, 1952.

Law enforcement activities are also decentralized with certain exceptions. The narcotics program, for example, was controlled out of our national office. So, it was centralized rather than decentralized. That program was not a good program for the IRS, and we have discontinued it as such.

Senator MATHIAS. I think you should. It was a wise move to discontinue it because this whole area, the use of informants, is, it seems to me, a very dangerous kind of area to operate in, and one that has side effects that can be very dangerous, far more dangerous than the information that an informant may produce.

Let me ask you this: In your year or two as Commissioner, have you ever been faced with a decision in this area of investigation, this area of intelligence, the area of confidentiality of returns, in which you were puzzled as to know what was the right thing to do, what was the right decision for you to make; and that you had recourse to the law and could not find the answer or any guidance as to what was right?

Mr. ALEXANDER. Yes. There have been some tough calls.

Senator MATHIAS. Could you tell this committee, either now or perhaps you might like to submit it later in a memorandum, what some of those areas of decision are in which you felt the law did not give you the proper support, the proper guidance; which you felt the Congress had neglected to provide statutory guidelines for the proper conduct of the IRS?

Mr. ALEXANDER. I would like to think about that question, Senator Mathias. It seems to me generally that the law as it exists today provides the mechanism for proper and effective law enforcement, and at the same time, for responsible and responsive law enforcement. One of our problems in the IRS has been that in certain isolated instances the controls that then existed were not respected, or controls were lacking.

We are attempting at this time, and have been attempting this year, to institute new and considerably stricter controls in a number of areas, particularly the one that concerns you and concerns us, confidential informants. Now the institution of controls, strict controls, where controls did not previously exist, is a disturbing, unsettled thing to people. And the reaction of certain of those people has been very clear in the media this last weekend.

We also, the Chief Counsel and I, are reviewing and have revised a prior policy of the service toward illegal evidence; we do not believe that we have any business using it. This is unsettling and disturbing to some.

Senator MATHIAS. I thank you, Commissioner. I think I would, for one, value any thoughts you have in order to expand on this thing. I think you should impose controls, even in the absence of statutory direction. But I do not think the Congress can pass the buck to you, and I do not think it is a discharge of our responsibility for the Congress to pass the buck to you, to take all of the heat on the proper regulation of other agencies. It might work for Commissioner Alexander. It might not work with another commissioner, some years hence.

The Congress has a duty to perform and I do not think we can lay it all on your shoulders.

Mr. ALEXANDER. I am grateful to you for that statement.

The CHAIRMAN. We certainly cannot.

Senator Huddleston?

Senator HUDDLESTON. Thank you, Mr. Chairman.

I think that we could agree with the statements that have been expressed by Senator Mathias, that certainly the IRS is not totally at fault with whatever abuses may have occurred. However, I think we have to accept the fact that the IRS does probably gather more information on more Americans than any other agency. Certainly it is a very important aspect of this committee's work in achieving its objective. Probably more than any other agency, it, like Caesar's wife, ought to be above reproach. It is the one area of law enforcement where the fundamental right of a citizen to be considered innocent until proven guilty is reversed. He generally is considered guilty until he can prove himself innocent when a charge is brought.

So I do not think that we can stress too much the necessity for a high caliber operation of great integrity when we talk about the IRS.

And that brings me to exploring a little further another area that Senator Mathias was touching upon, and that is the use of informants—whether or not this might cause some substantial infringement upon citizens' rights, the rights of privacy and other constitutional rights. I recall, for instance, the operation in Miami that is generally referred to as Operation Leprauchaun where a special agent there had a number of informants working under him. Those informants also had informants working under them that the special agent did not even know. He certainly could not be aware of the total types of operations that they were engaged in, in order to get the information. They talked about it on various occasions. At one time a woman informant suggested to the agent that she could use her sexual prowess in order to secure certain information. He maintains that he did not suggest to her that she should do this. But at the same time, he did not suggest that she not do this. She could use whatever means that she might want to employ. Now it seems to me that if an informant that is directed by an agent and paid by the Federal Government becomes an agent of the Government, an arm of the IRS, and to whatever extent they abridge rights and freedoms, then the IRS is abridging rights and freedoms.

And I do not know how you can operate without more control than was demonstrated by the operation, for instance, in Miami; when an agent does not even know who the informants are, where there at least appeared to be regular payments rather than payments just for specific

information. Now what has been done and is being done now to improve that kind of situation?

Mr. ALEXANDER. Senator Huddleston, we have instituted new controls on payments to confidential informants and on such matters as Operation Leprechaun—and Operation Leprechaun is not typical of the way the IRS goes about its business or went about its business.

Senator HUDDLESTON. But the use of informants is not unusual.

Mr. ALEXANDER. It showed a lack of control and we have instituted new controls. We have called for the highest level of review of the use of confidential informants. We are reviewing the controls that other agencies have been using for some time with respect to confidential informants. And, strangely enough, a suit was brought against me for trying to find out to what extent we were using confidential informants and to what extent we were paying them and for what purposes. This suit has since been dismissed.

Now, Mr. Wolfe, our Assistant Commissioner for Compliance, can respond in more detail than I about the controls that we now have in place and I wish he would supplement my answer.

Mr. WOLFE. Senator Huddleston, what we have done is to cancel the authority of anybody in the field to pay a confidential informant. Any payments to any confidential informant must be personally approved by me with full details of what information we are paying for, signed personally by the Regional Commissioner of the region from which the request comes. Furthermore, our instructions are now that we will only pay for information. We will not permit our people to take an informant and direct what that informant is to do. If that informant has information of tax significance—and I stress that, of tax significance—then the field is permitted to come to my office with the request that it be permitted to pay for that information. Only then will I approve any payment for any information.

Senator HUDDLESTON. Do you make any effort to determine what method might be used by that informant to secure that information?

Mr. WOLFE. Our instructions also provide that no informant is to obtain information illegally. Now, the use of informants, as you have so well pointed out, can be dangerous. We do not always know when we are getting information exactly how it has been obtained. We do ask our people to try to determine any time an informant has information—you are not always sure, nor can you be sure, because you don't know whether he will tell you the truth or not—whether this information was legally obtained.

So we do ask our people to make reasonable inquiry, but we do that particularly to see whether it violates the rights of the taxpayer involved.

Senator HUDDLESTON. That is a departure from the previous policy.

Mr. ALEXANDER. It certainly is.

Senator HUDDLESTON. Now, in this matter of information that you give to other agencies for which I understand you really do not have much discretion. The statute sets up the provision for that under regulations issued by the President. Is that correct?

Mr. ALEXANDER. That is correct.

Senator HUDDLESTON. But it does indicate that the FBI, for instance, when requesting information, should be specific as to what the purpose is. Is that correct?

Mr. ALEXANDER. Yes.

Senator HUDDLESTON. The fact is they have not been specific.

Mr. ALEXANDER. Yes; the specificity is not as great as it might be.

Senator HUDDLESTON. As a matter of fact, on the requests that were given at least prior to April of this year, when I understand new regulations went into effect, it would be virtually impossible for you or any Commissioner to determine from the request by, for instance, the FBI, whether or not it did comply.

Mr. ALEXANDER. Yes; that is a fair statement. I centralized these requests in my office because we don't want any tax information going from the back door to anybody else, other agencies or the White House, et cetera. But it is very difficult to do more than just look at the face of the request. And if you see a name on the request that happens to be a very likely political opponent of the person making the request, then that naturally arouses curiosity, and that request does not go anywhere until we are certain it's proper.

Senator HUDDLESTON. But, in other words, when you supplied the FBI with a list, for instance, of contributors to a certain civil rights organization, you had no knowledge that they might have at the time proposed to take that list of contributors to contrive a fraudulent letter with the signature of the individual head of this organization on stationery that they had secured surreptitiously from this organization, and mail out a letter to that list of contributors designed to discourage them from further contributions, further participation?

Mr. ALEXANDER. Absolutely none. We have no knowledge of that.

Senator HUDDLESTON. If you thought that action was going to happen, what would your reaction have been to releasing that list?

Mr. ALEXANDER. Well, in the bureaucracy, the last one to sign off generally has the upper hand, all things considered. So, I have an idea that a request like that would find its way to the bottom of the pile and have great difficulty in emerging to the top.

Senator HUDDLESTON. But it is a possibility? It was a suggestion on the part of a responsible member of the other agency, a strong enough suggestion, in fact, to be put into writing as a recommendation that this be done, a memo [exhibit 3¹] of which we happen to have in the possession of the committee.

Mr. ALEXANDER. The law needs tightening up, Senator Huddleston, badly.

We need two things. We need good laws. and we need good people.

Senator HUDDLESTON. Mr. Alexander, a number of methods were used by the IRS to try to pinpoint areas where tax evasion is a way of life, a normal thing, and something that ought to be checked. This enables your agency to pick out groups and do a broad-based investigation.

For instance, in one district, at least, there was an effort made to check the five top-elected officials in every county, just as a routine thing, even though there was no indication that there had been any

¹ See p. 45.

kind of corruption, any kind of tax evasion there. Another group went to a fight of the world heavyweight champion, Mohammed Ali—who, I am glad to say is still the world heavyweight champ—in Atlanta, Ga. and took down the license numbers of all of those who attended, and conducted a survey of their returns. We have already mentioned the ideological groups that have been routinely checked.

First of all, among these kinds of checks, what is the percentage of returns of those individuals that are actually checked?

Mr. ALEXANDER. That are actually checked in this kind of thing?

Senator HUDDLESTON. Right. After they have been spotlighted or pinpointed.

Mr. ALEXANDER. I don't know.

Senator HUDDLESTON. Would it be 50 percent? We have heard evidence that perhaps 50 percent of them would actually be checked.

Mr. ALEXANDER. I'm going to ask Mr. Bates or Mr. Wolfe or Mr. Williams whether they know. I will dig that out and, to the extent we have anything, Senator, I will supply it for the record.

But I would like to comment on this method of using our resources. I think checking license plates is an ineffective way to use resources.

Senator HUDDLESTON. They checked go-go dancers, incidentally, too.

Mr. ALEXANDER. Go-go dancers? I didn't know there was a special concern as to go-go dancers. Perhaps we found tax evasion among that group.

But this sort of thing is not the best way to use our people and our money and our powers. It may be fun and games to the person—

Senator HUDDLESTON. It might be a little bit more serious than fun and games.

Mr. ALEXANDER. I agree with you. Some may consider it fun and games; I consider it very serious. We have a problem not only of sound and effective and proper use of resources, but we have a problem of living up to the Caesar's wife stricture that people should expect from an agency with the vast powers, people, and information that we have.

Senator HUDDLESTON. The fact is that if our figures are right, some 50 percent of people who are targeted like this have their returns inspected. That means, for those who happen to get on the list because somebody disagrees with them at the White House or the FBI, chances are 25 times better than for the normal citizen that his tax returns will be audited. And he will be at least harassed to that extent by the Federal agency.

And, to go one step further, when you roll all of this together—the ideological effort, the blanket provisions of picking out politicians, office-holders or whatever—what has to emerge is an agency here that has a great propensity and a great ability to conduct a very strong, thought-policing effort in this country. I think this is where the dangers lie, in the misuse of the kind of power that resides in the IRS.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Our next member to question is Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Commissioner Alexander, you have thrown this committee off balance a bit and to some extent caused us some difficulty, because the usual scenario that this committee follows is, first, we have to fight tooth and nail to get any document we can place our hands on. Sec-

ond, we are told we do not have a right to see the documents anyway. Third, we have a bottleneck, that the staff is not available to provide us with that information, and we have to wait a couple more weeks to bring some staffers in. Next, they argue that under the Constitution, the Bill of Rights really does not cover the points that we are trying to raise in their testimony. After that, they insist that no abuses existed; but whatever occurred, they stopped doing several years ago.

And where you throw us off balance is, you sort of reversed that scenario all along the way and made it a little bit more difficult for us to operate, because you have given us documents right from the start. Even over this weekend, I understand there were some 50 people working in your offices to give us information for these hearings.

In addition, you are telling us what the Bill of Rights means, instead of our telling you, which is a very pleasant change of pace. And also, you acknowledge that abuses have existed, and, I think more impressive than that, your record, beginning in 1973, began with correcting some of those abuses, which no doubt has gotten you into some of the controversy that you have gotten into.

So it is just a pleasant surprise to run into these kinds of scenarios instead of the kind we are used to. And, I think, to keep the record straight and to be objective, our committee should also make that a matter of record.

I would like, Commissioner, to go into a couple of things that were happening before you came into office. One of them that disturbed me particularly—which, again, your office very helpfully supplied information on—was a project called Operation Mercury, where, in essence, any individual who submitted a money order for over \$1,000 through Western Union, their name was given over, as well as any person who submitted a money order over \$5,000 in the 1969 to 1972 time frame. As I understand, the result was that anyone who submitted an order, particularly over \$5,000, probably had his tax status looked into in some degree.

Would that be a fair sum-up, or maybe you can elaborate anything you know about it, even though I know it was before your time.

Mr. ALEXANDER. I think that is a fair summary of that project, as I understand it. And I don't have a high regard for that project for two reasons.

The first goes to the utilization of resources. This sort of dragnet approach would seem questionable at best. A second goes to the problem that Mr. Wolfe and I have been discussing with you this morning, and that is the question of illegal, or illegally acquired or improperly acquired, evidence.

Senator SCHWEIKER. And one other project that I would just particularly like to cite—and this goes back probably into the late 1960's time frame. The CIA gave the IRS names of individuals who recently traveled to Vietnam, the implication being that their tax returns would be audited.

I wonder if you could tell us what your present policy is in this area at all, not necessarily Vietnam, but that kind of technique or anything else you might want to say.

Mr. ALEXANDER. That technique isn't a good technique. People should be audited and selected for audit on an objective basis without regard to their travel. If they attempted to deduct the cost of going to

Vietnam, then we would be interested in examining the validity of that claim. But we are not interested in examining people because of their views with respect to Vietnam or anything else.

Senator SCHWEIKER. Commissioner, one of the most frightening aspects, I think, of the awesome power that your department has, we have touched on in a number of our questions. We have actually seen it abused. We are going to come back with a number of hearings on that with the FBI and their COINTELPRO activities. Again, this is something preceding you.

But I think the larger question is how to keep political influence and political purposes out of any IRS actions or audits. I know this is your concern, too, and I raise the question as to what, legislatively, we might do to back up a Commissioner like yourself who wants to lay down policies that might change when a new administration or a new Commissioner comes in. Do you have any suggestions that we might hear to keep aspects of political life out of the IRS system, and what you have been doing to do that.

Mr. ALEXANDER. One suggestion is that of a 5-year term for future Commissioners. Another suggestion is continual, constructive oversight over the IRS and other agencies having broad powers like ours. Tax enforcement is too important to leave to the enforcers.

What we have been doing is not only attempting to institute new controls, not only attempting to dispose of aberrations in the tax system as we find them, such as the Special Service Staff, and to prevent aberrations from happening in the future, but to open up the process by providing our manual, that tells what we do and how we do it, and making everything about our organization open to the public, so that all will have access to information that they need to have, and so that the creation of a Special Service Staff would come to light when it was created, unless some future Commissioner decided to close the process. And no future Commissioner should be permitted to close the process.

Senator SCHWEIKER. Following up the awesome power that you have with the information that comes to your attention, power that is provided to you and no other Government agency, one of the concerns I have—and I know it is a difficult area, because you have to strike some kind of a balance—is the relationships you would logically and rightfully have with States and municipalities on exchanging information. You call this a tax treaty with the States.

And I want to make it clear that my question does not imply that States and municipalities should not have proper access to information. But it just strikes me that if we go to great lengths in your Department and in your area, even with new laws, we still have a tremendous area here that, to some extent, is a back-door problem, whereby a State unit, politically, or even a city unit, politically, would want to make use of this material in a political or adverse way to your instructions. What advice can you give this committee about legislation to somehow regulate that, without denying the State tax functions and city tax functions rightful use of this information, because here is a wide-open barn door that you really have not dealt with either.

Mr. ALEXANDER. As you point out, we have a balancing of competing interests. First, the interests that all of us have in effective State tax

administration; and second, the interests that all of us have in preserving taxpayer privacy and in preventing abuse of power.

Secretary Simon has sent to the Speaker of the House a recommendation for a new law to replace the current law with respect to disclosure of tax information. That new law will govern our future relationships with the States. It will tighten up on present law, in that Federal tax information would not be supplied to local governmental units for tax administration purposes. We think, in striking a proper balance, the place to stop is the States.

In the meantime, we are tightening up administratively by reviewing our agreements with the various States, 48 in all, and by imposing new restrictions on them with respect to their use of information, new requirements on them to safeguard information, and new rights in the IRS to terminate the agreement immediately if the States don't live up to their obligations.

Senator SCHWEIKER. Might there be some way of having—and maybe you do; I do not know—having some kind of inspector general or ombudsman that might just be assigned to sort of freelance around your whole structure to look out for this? Maybe there is a more formal thing. I do not know.

Mr. ALEXANDER. We have that now, Senator Schweiker. Mr. Bates is in charge of our Inspection Service, and Inspection reports directly to the Deputy Commissioner, Mr. Williams, and to me. And their duty is to freelance around, to look around, to see what we are doing and how we are doing it. And they have reviewed the very problem we were just discussing about disclosure of tax return information to State tax authorities and local tax authorities, and the use by them of this information, and the safeguards that they have instituted or failed to institute. So they have been looking into this very area. Inspection is a vitally important part of tax administration.

Senator SCHWEIKER. Thank you.

That is all the questions, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Schweiker. Senator Morgan.

Senator MORGAN. Mr. Commissioner, I want to join in with the comments of my colleagues, and especially those of Senator Mondale, in complimenting you for trying to administer your department, while at the same time living within the law.

I think one of the things that this committee, if I may say so, is involved in is not only the abuse of power, but also the actual violations of law that are being carried on by agencies of Government. And I do not know how we can talk about curbing increasing crime, how we can talk about generating more respect for law, when we ourselves violate it.

So I commend you for what you are doing. And while I do not know the facts in the most recent case for which you have come under criticism, I certainly again compliment you on the position you have taken publicly with regard to using proper law enforcement methods and techniques. I know it is not an easy position to take. I had difficulty in the same area with people who were working for me when I was trying to administer the laws of the State of North Carolina.

We were talking about intelligence gathering in this committee's work. And it seems to me that you have probably got more confidential

information on individuals and their finances than any other agency in Government. Do you agree with that?

Mr. ALEXANDER. Well, I surely hope so. If another agency has more than we have, they have no business having it.

Senator MORGAN. And of course, most of this information is submitted to your department voluntarily by the citizens of this country who willingly, as a general rule, try to uphold the tax laws.

Mr. ALEXANDER. That is correct.

Senator MORGAN. And I think, as you have pointed out previously, Mr. Commissioner, if the taxpayers of this country ever conclude that this information is being misused, I think you may have substantial difficulty enforcing these laws.

Mr. ALEXANDER. We would.

Senator MORGAN. But now, in addition to this information that is submitted to you voluntarily, you have certain powers that have been granted to the revenue department, the Internal Revenue Service, to gather information that other law enforcement agencies do not have. Is that not true?

Mr. ALEXANDER. That is correct, Senator Morgan.

Senator MORGAN. Such as—could you give us an illustration?

Mr. ALEXANDER. Such as one which I mentioned earlier, the right by administrative summons to call on a third party to give us information with respect to a taxpayer; the issuance, of course, of an administrative summons to a taxpayer; the right, with limitations that we have imposed administratively, to issue a John Doe summons, a summons issued not with respect to the liability of a named person, but in an effort to get us to first base where we believe that there has been a taxable event but we do not know the identity of the particular taxpayer.

We also have other rights, more in the enforcement area than in the area of acquiring information. I have touched on those earlier: terminations of taxable years, levies, and seizures.

Senator MORGAN. In other words, to give an illustration that is easily understood, you can go down to my bank, or any taxpayer's bank, and find out about my account, can you not?

Mr. ALEXANDER. We can, and we need to do that. We need to have that power. But we need to understand that a power of this nature can lead to misuse or abuse or excess.

Senator MORGAN. You need the power, but it was given to you for the purpose of enforcing the tax laws of this Nation, was it not?

Mr. ALEXANDER. That is correct.

Senator MORGAN. It was not given to you for the purpose of stifling dissent, was it?

Mr. ALEXANDER. That is correct; it certainly was not.

Senator MORGAN. It was not to be used for the purpose of harassing the steel manufacturers?

Mr. ALEXANDER. That is correct.

Senator MORGAN. It was not given to you for the power of enforcing the drug laws of this country either?

Mr. ALEXANDER. That is correct.

Senator MORGAN. Then how can anyone justify—I know you do not—but what is the rationale behind those who try to use these powers for purposes for other than which they were given?

Mr. ALEXANDER. People perceive a need. They perceive in their own minds a great need. Perhaps they perceive a void in the law in certain areas—or perhaps in the capability of enforcing a law. Perhaps law enforcement people are not there. The people are being used in other ways; perhaps one couldn't persuade the FBI to divert itself from things that the Attorney General called "always foolish and sometimes outrageous."

So IRS, then, may be considered by those people to be a convenient vehicle for filling a void that they have discovered; the use of the tax laws to achieve this perceived good, such as depriving narcotics traffickers of cash, for example, is not surprising, because narcotics traffickers would not be at the top of our list, I would say—if we had one—of people who come forward to comply with the tax laws.

Senator MORGAN. In other words, to put it more simply, in the minds of many well-meaning, well-intended public officials, the end justifies the means.

Mr. ALEXANDER. Yes.

Senator MORGAN. Now, and to do this, you have probably the largest intelligence-gathering organization. You have about 14,000 investigators and 2,500 special agents.

Mr. ALEXANDER. Well, those 14,000—actually, it's about 15,000—are revenue agents, and they are not criminal investigators. But we do have a large investigative force in the broad sense of the term. We have about 2,700 special agents, and our people are good.

Senator MORGAN. And so, because of these rather unusual laws which grant to the IRS special powers which are not normally given, and could not be given, to law enforcement agencies, and because of this vast reservoir of manpower, it is quite often tempting for others to look to your department for assistance in carrying out what they perceive to be worthwhile objectives.

Mr. ALEXANDER. It certainly has been tempting, and they would like to enlist us as foot soldiers in the wars against whomever they choose to do battle.

Senator MORGAN. I wish to say to you, Mr. Commissioner, and to others, that I think this pattern is not something that came about in recent years. As long as I have been a lawyer, I have been concerned about what I consider to be this pattern of abuse, or misuse, of our tax laws. For instance, as you may have pointed out, you have the right to make a jeopardy assessment and to take a person's property into possession without affording that individual any of the due process remedies that we now use.

Mr. ALEXANDER. That is a peremptory right. That person can challenge only the good faith of our action.

Senator MORGAN. Now, a good example of that would be 1971, I believe, when the President, in his well-meaning and well-intended action, ordered the IRS to cooperate with law enforcement officers in drug enforcement, didn't he?

Mr. ALEXANDER. That is correct.

Senator MORGAN. And the purpose of it being that, if the law enforcement officers were not able to make a case against someone that they suspected of being involved in a crime, then they would call on you to come in and make a jeopardy assessment, or exercise these extraordinary powers that you have.

Mr. ALEXANDER. I'm not sure it worked that way, but I will state that the narcotics program, which has been terminated, was, in my judgment, not a sound use of IRS's resources. And, in some instances, it was not a sound use or proper use of IRS's powers.

Senator MORGAN. Well, I can tell you of a personal experience, Mr. Commissioner, somewhat similar to your own. As attorney general—as the committee has heard me say before—the State Bureau of Investigation was under my charge. And I had the finest and most enlightened director that I think you would find anywhere. But he was so intent on doing something about the drug traffic—and it was such an emotional thing—that if he could not make out a case, then he would turn to you people and you would seize the money or the automobile. And I found out about it, and then he and I had some rather—not heated exchanges—but it was a position that was just as hard for me to defend publicly because of emotion as it is for you to defend your position. I think that's another reason why we need strong men in positions where they are called upon to exercise extraordinary power.

Mr. Commissioner, my time is up; I would like to pursue this much further, and I hope that after we go into the COINTELPRO activities that then we will be able to come back and put our fingers on some illustrative cases so that the American people can fully comprehend how dangerous it can be for the people of this country for your power to be abused and misused.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Morgan.

I would like to follow up on Senator Morgan's remark by giving a concrete illustration. This comes from an internal memorandum of the CIA [exhibit 4¹], and it had to do with the CIA's request to the IRS to do an audit on the magazine "Ramparts." And I read the memorandum which relates to the conversations between the CIA and the IRS working out this arrangement.

The CIA agent who writes the memorandum writes the following: "I told them of the information and rumors we have heard"—"them", being the IRS—"about 'Ramparts' proposed exposé with particular reference to the U.S. National Students Association." Now that, you will remember, was the association that the CIA was heavily involved in, and helped to finance. When that was exposed, I am told that the CIA then, after removing its connection from the organization, urged the IRS to no longer give it tax-exempt status.

Reading on from the memorandum, "I impressed upon them the Director's"—this would be Director Helms—"the Director's concern and expressed our certainty that this is an attack on CIA in particular, and the administration in general."

Reading from the next page of the memo:

I suggested that the corporate tax returns of "Ramparts" be examined, and that any leads to possible financial supporters be followed up by an examination of their individual tax returns. It is unlikely that such an examination will develop much worthwhile information as to the magazine's source of financial support, but it is possible that some leads will be evident. The returns can be called in for review by the Assistant Commissioner for Compliance without causing any particular notice in the respective IRS Districts. The proposed examination would be made by Mr. Green who would advise me if there appeared to be any information on the returns worth following up.

¹ See p. 46.

Now I can't imagine a more clear-cut case of the CIA attempting to use the IRS for the purpose of getting a magazine that proposed to expose activities that the CIA wanted to conceal, or a more threatening use of governmental power to undermine the freedom of the press in this country.

The question I have to ask you, Mr. Commissioner, is, is it legal for the IRS to examine individual tax returns, or organizational tax returns, and then supply the information it obtains to the CIA or to the FBI for purposes unrelated to tax collection?

Mr. ALEXANDER. Two points. Number one, the IRS has no business engaging in the use of its processes to harass people, to harass so-called enemies of any kind, the magazine you mentioned or anyone else.

Number two, the Director of the CIA can ask the IRS for information in connection with a matter officially before the Director, and the IRS would have a responsibility, under present law, to supply that information.

The CHAIRMAN. Do you know how a magazine publishing in this country, operating under the protective umbrella of the first amendment to the Constitution, could be officially a matter of concern, or be officially before the Director of CIA, for the purpose of entitling the agency to obtain the assistance of the IRS to do audits of its accounts?

Mr. ALEXANDER. No, I don't. But the one best capable of answering that would be the Director of the CIA.

The CHAIRMAN. I think we will have Mr. Helms back again and again and again.

These are the lists that we are referring to today—3,000 organizations appeared on the Special Services Staff list for audits, and 8,000 U.S. citizens. It is our understanding that about half of the names, organizational and individual names, came to the IRS and were included on the list at the request of the FBI.

The point that I made earlier I would like to make again at this time. It is established by the evidence that even the names of individuals and organizations that were connected with the war protest movement, or might have had some connection with the problem of violence at that time, were not a proper use of the tax-collecting power.

I shall ask the committee to release the lists in their entirety; time does not permit that now. When you look at these lists you will see how far afield they went even of the official purpose that, under the memorandum to which we have referred, they were supposed to be put. For example, here are some groups that I have taken from the list since I have been able to move through it this morning, in addition to those that I gave at the commencement of the hearing, groups that are well known to all of us, that appear on this list for purposes of having their tax returns audited. And it is very difficult to find any possible justification for such church groups as the American Jewish Committee, the American Jewish Congress, the Associated Catholic Charities, the Baptist Foundation of America, the B'nai B'rith Antidefamation League, or such Government institutions, if you please, as the U.S. Civil Rights Commission, or such professional associations as the American Law Institute and the Legal Aid Society. Or such political organizations as Americans for Democratic Action.

And, yes, on the other side of the spectrum as well, the Liberty Lobby, the John Birch Society, and the United Republicans of America. Or such citizens associations as Common Cause, the Legal Aid

Society, the Committee for a Sane Nuclear Policy, the National Education Association, the Women's Liberation Movement.

Somehow, the Women's Liberation Movement is on all of the lists. The Fund for the Republic, such foundations as the Carnegie Foundation, and such publications, magazines and newspapers in this country as "Human Events", "Playboy", "Commonweal", "Rolling Stone", "The National Observer", "The New York Review of Books", and "The Washington Monthly".

I just think that going down the list and pointing out how far afield the IRS was tasked to go, demonstrates the tremendous dangers to our privacy and to our liberty that are implicit in this kind of undertaking. We fought the Revolutionary War over a problem of taxation, and we had better make certain in the future that the IRS attends to collect taxes, and doesn't become the instrument for the harassment of other organizations and other citizens in this country, in connection with which, or with whom, there are no questions of tax liability.

Senator Schweiker has a question.

Senator SCHWEIKER. I do have one question for the Commissioner.

I realize again, Mr. Commissioner, this is before your time frame; maybe you could shed a little light. It has to do with another memo called "Tax Protest Movement" and a tax protest list, and it is dated December 6, 1972, to District Director, St. Louis District, from Intelligence Division [exhibit 5¹].

It says:

Attached herewith, for your information, is a copy of a list of various members involved in the tax protest movement. These individuals have been identified through investigations conducted in the San Francisco District relative to various tax protest groups. It is believed that some members of these groups are capable of violence against IRS personnel.

And going through the list of names, the name that obviously comes to attention first is Senator Joseph Montoya of New Mexico. I wonder, is there any light you can shed as to why you think Senator Montoya is violent, or is on a tax protest list? Can you help enlighten us how this got through the system?

Mr. ALEXANDER. I'm afraid I can't help very much because I can't put myself in the place of the author of that list. The only connection that I can think of immediately is that Senator Montoya is, after all, the Chairman of the IRS Appropriations Subcommittee, and someone might have thought that he did violence to our appropriation. I can't think of anything else. I think that points up the absurdity of some of the lengths to which a few people have gone.

Senator SCHWEIKER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Mondale?

Senator MONDALE. Commissioner Alexander, in response to the chairman's question about the CIA inquiry about the tax status of the Ramparts magazine reporter who might be about to disclose CIA funding of the National Student Association, I thought I heard you say, in your opinion, it is still your duty under the law, should the

¹ See p. 48.

Director of the CIA request access to information, to turn it over to him?

Mr. ALEXANDER. It is.

The head of an agency—

Senator MONDALE. In other words, this could still happen today?

Mr. ALEXANDER. It could. The Director of the CIA is the head of an agency, and under these presidentially approved regulations, under present law, the head of an agency can call on the IRS to furnish tax information with respect to a matter officially before him. It would be difficult for IRS to question the Director of the CIA as to what's officially before him.

Senator MONDALE. So, if you had a Director who wanted to do the same thing today, and he asked you officially for the returns, you would provide them to him today, and you would not inquire of him as to what he had in mind.

Is that correct?

Mr. ALEXANDER. Let me modify what I have just stated.

The Chief Counsel has just pointed out that there is a word, "may," in that regulation, rather than "shall." We have been interpreting that to be "shall," except in these rare instances, of which I gave an example. It would be very difficult for me to make material changes in this established practice without a change in the law.

I think you are—

Senator MONDALE. Have you, since 1973, ever inquired of either the FBI, the Justice Department, or the CIA when they have requested tax information as to their real reasons and use?

Mr. ALEXANDER. Oh, yes.

Senator MONDALE. You have?

Mr. ALEXANDER. We certainly have.

I have personally, and the Chief of our Disclosure Division in our compliance function has. Yes, we have.

Senator MONDALE. Do you inquire, under all circumstances, whenever you receive a request to determine that the use of that material is solely for legitimate and official duties within the law?

Mr. ALEXANDER. The letter requesting the tax returns, under our new procedures, comes to me.

Now, I look at that letter—there are a number of them, a great number—in 1974, the tax returns of more than 8,200 people were requested.

Senator MONDALE. From the FBI?

Mr. ALEXANDER. No. These were total requests from governmental agencies.

Senator MONDALE. And roughly, what agencies?

Mr. ALEXANDER. Mainly from the Department of Justice and U.S. attorneys.

Senator MONDALE. Were some from the CIA?

Mr. ALEXANDER. According to the lists that have just been handed me, for the calendar year of 1974, which I believe to be correct, there are none from the CIA. The Department of Justice, which acts on its own behalf and on behalf of the FBI and U.S. attorneys, is, by far, our largest customer.

Senator MONDALE. Which other customers do you have?

Mr. ALEXANDER. The Department of Agriculture, the Bureau of Alcohol, Tobacco and Firearms, the Department of Commerce, the

U.S. Customs Service, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the General Accounting Office, the Interstate Commerce Commission, the Department of Labor, the SEC, and the Renegotiation Board were the requesters in calendar year 1974. And a total of 29,529 returns were requested, Senator Mondale.

Senator MONDALE. Under your interpretation of the regulation and statutes, any agency of the Federal Government can request these returns if they certify the purpose is official.

Mr. ALEXANDER. They need to do something more than that. They need to give us assurance that they will hold the information confidential. They need to give us, and are giving us, some detail as to why they need it, rather than just a simple statement that it is needed.

Now, Mr. Whitaker, would you amplify on that statement?

Senator MONDALE. Just a minute.

This is really disturbing, in my opinion, because I think you are doing a good job. But I think the horse is still out of the barn, and the IRS is still serving as a private investigative arm for these agencies whenever there is something they want to know, no matter what agency it is. As I read the law, there is supposed to be an inquiry into whether this is within the official duties of the Justice Department or the U.S. attorney requesting it. But instead, just about anybody in government can inquire, and I am not at all convinced that you are in a position to know what on earth they have in mind with those returns.

Mr. ALEXANDER. Senator Mondale, the concerns that you express, that we share, account in considerable measure for our request that the law be tightened up, so that the law and the regulations will give us the right to refuse to furnish tax information where we believe that the request is not a proper one, where we believe that there is not a real need for the information or it can be reasonably acquired elsewhere.

Senator MONDALE. The reason you want to tighten up is that right now these returns, as we sit here, can be requested and used for illegal purposes.

Mr. ALEXANDER. I believe that that statement is correct, and I believe that under the present regulations, it would be difficult, it would be awkward at best, for us to effectively police requests so as to be able to give you absolute assurance that the return was requested for a proper purpose.

Senator MONDALE. Now, I want to give one further example here of why I think the failure to have proper controls on this information could, if unrestricted, destroy this country's freedoms.

Senator Huddleston earlier referred to a civil rights organization in Atlanta, and I think you are familiar with this case. We do not know what actually happened, and the chances are that it did not go beyond what was recommended here, but we do know that the FBI obtained information, that was supposed to be classified in the IRS, listing the donors to this civil rights organization. And this is what the officer in the Atlanta office proposed to do—and I'm going to refer to this organization simply as "organization" and its nationally known leader as [deleted]. [See exhibit 3¹]. Here is what he said:

It is believed that donors and creditors of the organization present two important areas for counter-intelligence activities. In regard to the donors it is

¹ See p. 45.

suggested that official organization stationery bearing [deleted] signature, copies of which are available to the Atlanta office and will be furnished by separate communication to the Bureau laboratory for reproduction purposes, be utilized in advising the donors that the IRS is currently checking tax records of the organization, and that [deleted] through this phony correspondence"—in other words, they are going to sign [deleted] name for him—"wants to advise the donor, insuring that he reported his gifts in accordance with the IRS requirements so that he will not become involved in a tax investigation. It is believed that such a letter of this type from the organization may cause considerable concern and eliminate future contributions.

Now this was a decision based upon information they were able to obtain from the IRS, which they were going to use to destroy the funding of a moderate civil rights organization which apparently displeased them.

Now, in answer to Mr. Huddleston's question, you said such a request would go to the bottom of the pile. It didn't go to the bottom of the pile. They got the information from the IRS, and—we don't know whether this actually happened, apparently it did not—but at least one agent was going to use it to try to chill and undermine one of our moderate civil rights organizations.

So, do you not see, in the failure to have the tightest kinds of control on this information so that it is limited solely to tax enforcement and carefully defined other official legal uses, that the present loose control of this information makes it possible to resort to these kinds of outrageous and totally indefensible and exceedingly dangerous practices that threaten America's freedom?

Mr. ALEXANDER. Yes, Senator Mondale. We certainly believe that the laws should be tightened up. We are accountable for our own actions. The actions of other agencies are matters for which they should be held accountable. We rely upon the present law, upon good faith, and we think we have good reason to so rely. We would like to be able to give 100-percent assurance, but we cannot.

Senator MONDALE. Can there be any solution to this privacy matter so that they are not abused in these ways unless the Commissioner of the IRS possesses sole authority over those documents and power to determine whether or not their uses are proper and legal? If you must continue under present policy, that vests that authority in the FBI, the Justice Department and all the other agencies mentioned on those other lists, can there really be any control?

Mr. ALEXANDER. There can be some controls.

Senator MONDALE. But not much.

Mr. ALEXANDER. But not absolute controls.

Senator MONDALE. All right. Thank you.

The CHAIRMAN. Any other questions?

Senator HUDDLESTON. Just a loose end or two, Mr. Chairman.

The CHAIRMAN. Yes; certainly, Senator Huddleston.

Senator HUDDLESTON. In respect to the information that you have given us that certain procedures are now in effect to tighten up the use of confidential informants, we have a memo from the IRS to the special agents in the Jacksonville district which sets out the procedures to be used. This is dated July 9, 1974 [exhibit 6¹].

We also have a tax memo written by one of the agents, at least, to whom this was sent, which is headed "Instructions from JKW," who

¹ See p. 53.

is Mr. J. K. Wishwell, and apparently his comments on these suggestions—he writes, for instance, “No 1, reduce fund to \$500 for (a confidential informant),” on which he writes “ha, ha, ha.”

Senator HUDDLESTON. There is another entry in which he says, “restrict payout to \$250 without prior approval,” on which he writes, “ha, ha, ha.”

Another provision, “after each payout rendezvous with another special agent or JKW and hand deliver receipt, voucher and import and pick up reimbursement check.” He writes, “ha, ha, ha.”

“No. 7 said he would give me instructions in writing to minimize misunderstanding,” and again he notes, “ha, ha, ha.”

Is this the kind of response that you have been experiencing with these instructions that may have gone out to the agents in the field?

Mr. ALEXANDER. I don't think so. I think this gentleman obviously was a man of few words.

[General laughter.]

Mr. ALEXANDER. This is not typical of the IRS special agent. I think there are many fine, dedicated people doing a tough job well. I think there are a few, and a very vocal few, that are impeding efforts toward making our tax administration system sounder and more responsible, and this gentleman's repetition of his word “ha” would put him in this category.

Senator HUDDLESTON. I'm wondering, though, about a gentleman who's been out in the field dealing with informants who are not people who would be characterized as pillars of the community. There is one who turned in his own father as a tax evader. I am wondering if this is not a commentary on the workability of any set of rules or standards if you are going to deal with that kind of people.

Mr. ALEXANDER. Well, tight controls, sensible tight standards, are surely better than the alternative of lax or nonexistent controls and standards.

Senator HUDDLESTON. I agree with that. I was just suggesting it is an area that would require continual supervision if it is to be employed at all.

Mr. ALEXANDER. It does, Senator Huddleston. This is an area fraught with danger, the danger of misuse, the danger of actually employing people of, at best, doubtful character, doubtful reputation, and doubtful veracity by the IRS, with its great powers. An additional fact is that the institution of a criminal investigation itself, when made known by third party contacts, is a very severely damaging thing to the person investigated.

Senator HUDDLESTON. Now, the agency has also used undercover agents, as I understand, and there is at least one instance where undercover agents infiltrated the inner circle of an individual who was undergoing a tax investigation and tax prosecution, as a matter of fact. Because of this, he was able to learn what the defense strategy was, what kind of affidavits were to be filed, what plea was to be made, and did, in fact, convey this information to the prosecuting attorney.

Is this the kind of thing that undercover agents are expected to do?

Mr. ALEXANDER. No; it is not.

Senator HUDDLESTON. Do you know of any other incidents besides the ones I cited, which is a case out in Los Angeles, Calif., where this might have occurred?

Mr. ALEXANDER. I am aware of that case, and I am disturbed by it. I do not know personally of any other instances. I don't know whether those with me today know of any others.

Mr. WOLFE. I know of none.

Senator HUDDLESTON. The system which utilizes undercover agents and informants certainly lends itself to that kind of abuse.

Mr. ALEXANDER. That is one of the dangers in the use of a confidential informant, particularly if the confidential informant is encouraged by silence, or by action, or by knowledge and acquiescence, to engage in activities beyond the line, beyond the line legally, beyond the line ethically and morally. These present very great dangers and I question whether the benefits to the enforcement of the tax laws are worth the cost to enforcement of the tax laws.

Senator HUDDLESTON. We also have information that documents which were maintained in the IGRU system were destroyed contrary to the regular document destruction schedule by the IRS.

First, what was the IGRU?

Mr. ALEXANDER. The IGRU, to which I referred earlier, was the Intelligence Gathering and Retrieval Unit in the IRS. IGRS was the Intelligence Gathering and Retrieval System. This was to be a computerized system for maintaining general intelligence information that the IRS had gathered. It resulted from a study instituted, I believe, in 1969, implemented in 1973, and modified in 1974. The Deputy Commissioner and I suspended this system in January of this year. It was a system that accumulated a great deal of information of somewhat doubtful value. But the system itself, the idea of computerizing this information, is a sound idea. The implementation of the system was the problem.

Senator HUDDLESTON. Is there any way to make distinctions among that evidence that might have been collected illegally, if the evidence were valid?

Mr. ALEXANDER. I think this operated as a vacuum cleaner; everything went in, in some districts; very little went in, in others. The district offices were encouraged to build up the system, and some of them reacted with great vigor to do precisely that, Miami being one of such offices.

On January 15, we found that 465,442 names were in the system, and included in those names was mine.

Senator HUDDLESTON. What about the destruction of these documents contrary to procedure? Were you aware of that?

Mr. ALEXANDER. I became aware of that recently, and it is very disturbing to me.

Senator HUDDLESTON. How could it have happened, or how did it happen?

Mr. ALEXANDER. I don't know of my own knowledge how that happened. We give instructions in the national office. We expect those instructions will be carried out, and in almost every instance they are. In some instances, people, through misunderstandings or through, I'm sorry to say, a willful act, refuse to carry them out.

Senator HUDDLESTON. Are you aware that in at least two instances documents were destroyed related to extremist organizations or extremist individuals?

Mr. ALEXANDER. I have become aware of that, yes.

Senator HUDDLESTON. Do you attach any significance to that?

Mr. ALEXANDER. Yes; I do. It causes me deep concern because it would appear that someone thought that these should be destroyed because of the adverse impact on, perhaps, the assembler or perhaps the holder of the document, if they were not destroyed. Of course, that is a concern for the head of a law enforcement agency.

Senator HUDDLESTON. Also the revelation of how the information might have been obtained would leave some question.

Mr. ALEXANDER. That is another problem.

Senator HUDDLESTON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Commissioner, did you testify that in 1974, something in excess of 20,000 income tax returns were turned over to other agencies of the Government?

Mr. ALEXANDER. Yes; I did. The number, I believe, was 29,520 plus.

The CHAIRMAN. 29,520 plus?

Mr. ALEXANDER. Yes. The returns were for those 8,210 taxpayers, Mr. Chairman.

The CHAIRMAN. 8,210 taxpayers. Now, does that include returns that may have been requested and turned over to State governments?

Mr. ALEXANDER. No; not at all.

The CHAIRMAN. Do you have the figure for the latter?

Mr. ALEXANDER. I have a figure, and I would like to supplement this for the record, to give you the full figure, Mr. Chairman. You see, returns turned over to the State governments actually consist in large part of taped transcripts.

Now, my understanding is that in 1974, the taped transcripts of some 63 million individual returns were turned over to State governments; but in addition to that I receive a number of requests from State governments for individual returns that are not included within this figure. We have agreements with 48 of the 50 States. We do not have agreements with Texas and Nevada, and I would like to supply for the record, if I can, Mr. Chairman, a full and complete listing for you [exhibit 17¹].

The CHAIRMAN. I wish you would.

You see, as the record stands now, in 1 year alone, nearly 30,000 returns involving more than 8,000 taxpayers, were turned over by the IRS to other Federal agencies. You have said this is a very loose arrangement. The laws need to be tightened to give a greater measure of confidentiality.

This committee is concerned about what is becoming obvious in the course of these hearings, and that is the spreading of "Big Brother" government methods, and what your testimony shows is that, at least as of now, every taxpayer in this country is on notice that when his tax return is filed in the IRS, it means any agency in the Government that can claim an official interest can get into that tax return for its own purposes. That is what it means. And, what better form is there to intimidate people, harass people, force them to comply with whatever it is some other agency may have in mind, than to have his tax return and information that it may contain.

¹ See p. 103.

This morning we have seen further that, until recently at least, the IRS itself maintained a list of 8,000 individuals and 3,000 organizations which other agencies of the Government asked them to compile for the purpose of making tax audits, though clearly from the nature of these organizations, they are not suspected of owing taxes. Now, if that isn't an abuse, I don't know what abuse is.

Furthermore, some of these agencies had no lawful right to request that these names be placed upon such a list. I gave you an example a few minutes ago of the CIA making such a request on "Ramparts" magazine because it feared that "Ramparts" might print something that the CIA did not want printed. Yet the law on which the CIA derives its powers provides expressly that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions. It was to stay out of domestic affairs. But it didn't, it hasn't, and it won't until we begin to write the laws much differently and prescribe penalties for their violation.

I want to thank you, Mr. Commissioner, and I want to thank your assistants who have come here. I want to thank you for the cooperation you have given us and the information you have turned over to us. It is very helpful to the committee.

The committee now stands adjourned.

Our next hearing will be announced by the Chair.

[Whereupon, at 12:32 p.m., the committee recessed, to reconvene upon the call of the Chair.]

HEARINGS EXHIBITS¹

EXHIBIT 1

SPECIAL SERVICE STAFF: ITS ORIGIN, MISSION AND POTENTIAL

PREPARED BY ACTS:USS FOR BIENNIAL MEETING OF REGIONAL COMMISSIONERS AT CHARLOTTESVILLE, VIRGINIA NOVEMBER 1 AND 2, 1972

(CONFIDENTIAL)

I. Introduction

Recognizing the right to legally and peacefully protest, assemble, and petition the government is inherent in the freedom of each citizen. Any abuse of these rights reflects a chipping away at fundamental principles regarding rights, freedoms, and redress of grievances. There are those who readily condemn our present tax system and would tear it down if they could. Unreasonable demands are being presented to all levels of government as well as to private business. Unlike the violence and riots of the sixties, the early seventies have focused on a more threatening combination of protests and problems which are sure to carry us well into the seventies—likely escalating in intensity and frequency. Well organized protest groups have turned their attention away from the winding down Vietnam War issues.

Today they are concerned with future strategies directed at the economic structure of this country with particular emphasis towards the Internal Revenue Service, i.e., methods of funneling taxes into alternative funds (telephone and income tax nonpayers feel it desirable to have a "civilian fund", a "peace fund" or "alternative fund" into which people could place their held-back tax monies; how to amend to IRS procedures (break down the federal tax collection machinery and earnestly solicit others to join in the effort); and, endorsing legislation which would legalize "conscientious tax objector status."

It takes considerable naivete not to recognize that we are confronted with highly organized and well financed groups bent on destroying our form of government and they are moving very carefully, step by step, following well laid plans.

Probably, their number one goal at this point is to erode, and eventually destroy, our entire tax system.

II. Background on formation and mission of Special Service Staff

Information developed during the hearings of the Senate Committee on Government Operations during August 1969 established that various controversial organizations presented problems to the Internal Revenue Service. These organizations categorized as extremists on the right or left were not in compliance with Internal Revenue laws. Information was also developed that individuals in the forefront of these organizations filed tax returns reflecting nominal income, or did not file at all, although they were obviously expending substantial amounts of funds.

These hearings clearly indicated a need for the Internal Revenue Service to actively enter into a compliance program directed toward these extremist groups and their principals, who, by their stated attitudes and actions, could be expected to ignore or willfully violate Federal tax statutes.

Functioning under the Assistant Commissioner (Compliance), a special compliance group was established in August 1969 to receive and analyze all available information on organizations and individuals promoting extremist views and philosophies. The identification of organizations and individuals included in the program was without regard to the philosophy or political posture involved; rather, it was directed to the notoriety of the individual or organization and the probability that publicity might result from their activities and the likelihood that this notoriety would lead to inquiries regarding their tax status. Another important consideration was the degree of probability that the individuals might deliberately avoid their tax responsibilities.

Liaison was established with Federal investigative and law enforcement agencies (such as FBI Secret Service, Army, Navy, Military Intelligence, and Department of Justice) and with Senate and House Investigating Committees. By use of pseudonyms and "drop" boxes, radiant, subversive, and extremist publications were subscribed to and organizations joined as a source of securing information on matters involving taxable income of individuals, activities of organizations having or seeking tax exempt status, and identity of individuals or exempt organizations providing financial support to activist groups.

As another major part of its activity, files are reviewed and information furnished on organizations and their principals where exempt organization actions are pending. Liaison with Technical helps to ensure that no erroneous technical advice or rulings are issued due to lack of information.

Liaison was also established to receive and/or disseminate information with Firearms, Intelligence, Internal Security, Service Centers, Office of International Operations, National Computer Center, Public Information, and the Audit and Collector functions.

¹ Under criteria determined by the Committee in consultation with the Internal Revenue Service and the Federal Bureau of Investigation, certain materials have been deleted from these exhibits, some of which were previously classified to maintain the integrity of the internal operating procedures of the agencies involved, and to protect intelligence sources and methods. Further deletions were made with respect to protecting the privacy of certain individuals and groups. These deletions do not change the material content of these exhibits.

Starting with 77 files, identified by the Congressional Committee, within less than one year after this Compliance Group was established, information had been manually compiled and consolidated into 1025 organizational and 4300 individual files. Currently, the Group (now known as: Special Service Staff, ACTS-C:SS) has 11,000 files (8,000 individuals and 3,000 organizations). In the composition of these files are 12,000 classified documents. In addition to established files the Staff has availability to a computerized printout furnished by another agency. This listing of names of individuals and groups who pose a threat to the security of this country currently identifies another 16,000 entities where tax violations would appear probable.

Until the Special Service Staff was formalized February 11, 1972, its activity was considered semi-secret and apparently our people in the field were not knowledgeable of its mission and objectives. Investigative personnel particularly should be more familiar with this Staff's activity and mission as outlined in IRM 1113453. Also, there is a need to increase field awareness of the importance of the investigative information furnished by the staff to district offices.

Plans are in the mill to implement certain recommendations of a recent computerization feasibility study. Some degree of mechanization appears necessary to cope with the accumulation and quantity of data received by the Staff from sources within and outside the Service.

The Staff acting as a central intelligence gathering facility consolidates data available within IRS and any obtainable from other investigative or law enforcement agencies. Accumulated data in the files suggests there are two major categories of organizations and individuals identified as likely to be violating Federal statutes including the tax filing and paying requirements of the IRC.

These organizations and individuals can be generally categorized as (1) Violent Groups - those who advocate and practice arson, fire-bombing and destruction of property; use coercive threats for funds through U.S. Postal Service; make threats against public officials; plan and organize prison riots; engage in activities involving illegal accumulation of firearms and ammunition; have been identified as planning and carrying out skyjacking; and, those who print and distribute publications advocating revolution against the government of this country. In category (2) there is ample evidence of activities involving so-called Non-Violent Groups, who by alleged peaceful demonstrations oftentimes deliberately initiate violence and destruction. Included are those who publicly destroy and burn draft cards, destroy Selective Service office records, participate in an organize May Day demonstrations, organize and attend rock festivals which attract youth and narcotics, aid in funding sale of firearms to Irish Republican Army, Arab terrorists, etc., travel to Cuba, Algeria and North Vietnam in defiance of existing statutes (rebelling to seditious acts), inciting commotion and resistance to authority by encouraging defectors in the Armed Forces to enter into alliances to subvert this nation, and there is evidence from classified documents that transfers of large amounts of money to and from the USA are being used to establish and organize groups with the view of overthrow of this government.

III. Current procedures employed by the Special Service Group

Currently, as information is received, it is reviewed for indications of non-compliance, such as erroneous exemptions, contributions to unqualified organizations, the channeling of funds by exempt organizations to non-exempt organizations, or items of unreported income; operations outside of its charter by tax exempt organizations; and the failure to file and/or pay income, gift, and employment taxes. Publications and documents are reviewed for information of tax strike or resistance movements.

When any of the above indications are present, file searches, where possible, are initiated to see if returns are filed and taxes paid. In appropriate cases, Social Security checks are made for possible unreported sources of wages and earnings.

If the review and evaluation so warrants, pertinent financial and tax data is transmitted to the District Audit, Intelligence, or Collection Division. Since much of the information is classified, it cannot be reproduced or transmitted in the form received, and, of necessity, must be excerpted and captioned. These referrals may relate to specific individuals, organizations, or groups of individuals.

Should other agencies desire information relative to tax returns or investigations, they must request it through official channels observing the disclosure procedures.

In addition, information and trends on tax strike and resistance movements is sent to districts affected. Under present procedures, the receiving districts determine to what extent the information is used.

The Staff also informs the National Office Protective Programs Branch of Facilities Management and the National Office Coordinator in the Intelligence Division when there are indications of protests or demonstrations which would be a threat to Internal Revenue premises.

Examples of several types of Special Service Staff referrals have been condensed and included as exhibits in a package of attachments. These show the revenue possibilities that exist in both the audit and collection fields, including income, gift and employment taxes. (Exhibit 12).

The packet also contains samples of materials published and circulated by members of the tax strike and resistance movements. To show the degree of sophistication these movements have reached, the first exhibit in this package is a reproduced FBI report on a national convention of activists recently held in August at Kansas City with Internal Revenue Service as their focal point of attention.

IV. Potential usage and availability of Special Service Staff

The files of the Special Service Staff contain vast amounts of information pertaining to types of individuals and organizations described. This material is received on a day-by-day basis and it has been impossible for the Staff to keep pace with this growth. As a result, although files have been established, there is a great deal of material which has not been evaluated, and consequently has not been referred to field offices.

This material is available to revenue agents, special agents, and revenue officers working on individuals or organizations involved on these left or right wing movements. One of the problems has been that examining personnel are not aware of the Staff, its mission or operation. As stated before, the time has now come when field personnel should be fully informed of the existence of the Staff and the type of information available.

Should an agent or revenue officer be assigned a case falling into one of the categories discussed, he should feel free to direct an inquiry to the Special Service Staff to see if there is any information on file or that could be obtained that would aid in their investigation. The file could contain financial information to assist in an audit or it could possibly be a current address to assist in closing a TPA or TDI. Inquiries can either be by mail or telephone and directed to the address or telephone number shown on the transmittal letter (See Exhibit #4 in attachment).

Many of the files are extremely voluminous containing detailed financial information. In such instances it may be preferable to have field personnel come in and extract pertinent data from the case file. However, due to the classified nature of the files, it would be necessary to obtain a secret security clearance for each employee desiring to make such an inspection. Since some of the files are Top Secret and the degree of clearances should be kept at a minimum, Staff members with Top Secret clearance can extract and capsuleize any pertinent data of this nature if needed.

While the Special Service Staff is essentially an information gathering and dissemination operation, it should not be considered a one-way street. Field personnel should be advised to be alert for information and data concerning these organizations and individuals indicating they willfully ignore or violate tax statutes. This added resource would open an effective two-way communication channel which can do much to improve any Internal Revenue Service actions required. This is especially important where such information would cross district or regional lines permitting coordination with other offices.

Further, field personnel should also be alert to criminal violations other than those involving the tax statutes. This could include any indication of acts of violence, falsification of official documents, threats against Government officials or officers, etc. Such information should also be channeled to the Staff so they can coordinate with the appropriate agency.

V. Conclusion and discussion

It has now been discussed in some detail how this Special Service Staff activity functions, what its purpose is, and how effectively the leads and cases it generates are utilized by the Service. The magnitude and potential of this facility is impressive. A recent internal audit of the Special Service Staff fully supports the conclusion that this function offers high potential as a deterrent in coping with widespread tax violations sponsored by activist groups.

Certainly Internal Revenue Service officers and agents can only do so much on their own in trying to collect from, investigate or examine these organizations and individuals, who through insidious methods have collaborated to form a revolutionary force, which if allowed to develop gradually will become well established before becoming apparent.

Perhaps the only way to combat a tax rebellion growth or movement in our society is for the Internal Revenue Service, which now has this Special Service Staff access to reliable intelligence information, to expose the hard core leader,

and fringe element in our nation who advocate tearing down our present system. This presentation should give you some additional insight into the formation and potential for a central intelligence gathering facility of this nature. Hopefully, it has also encouraged you to think about "what is to be done?"

Among the alternatives to be considered and discussed:

Using the Special Service Staff as a nucleus, would it be practical to develop a multi-agency approach using strike force concepts with special emphasis on criminal code prosecutions under Title 18 in correlation with Title 26.

EXHIBIT 2

to: Director, Federal Bureau of Investigation
 Department of Justice

from: Assistant Commissioner (Compliance) CP:PHM
 Internal Revenue Service

APR 1 1968

Subject: Request to be Placed on Dissemination List

Attention: Special Agent Patrick D. Putnam

For your information I have formed a committee of some of our Compliance people to gather data and recommend actions to be taken within the Internal Revenue Service relating to various organizations of predominantly dissident or extremist nature and/or people prominently identified with these organizations.

The group I have formed is named the Activists Organizations Committee and is now functioning with Mr. Paul H. Wright as chairman.

I will appreciate this committee being placed on your dissemination list for information which relates to the types of organizations mentioned above and people associated with them. At this time we request file data on the organizations listed on the attachment to this memorandum.

It is apparent that additional requests for information on organizations and individuals will be made as this committee proceeds with its assignment.

I will appreciate your approval of this initial request and ask that any data transmitted be delivered to the attention of Mr. Wright, Room 3503, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D. C.

D. H. Baum
 Assistant Commissioner
 (Compliance)

Attachment
 List of Organizations

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. C. Sullivan

DATE: 8/15/69

Stack

1/2

FROM : D. J. Brennan, Jr.

SUBJECT: INTERNAL REVENUE SERVICE (IRS)
INVESTIGATIONS OF NEW LEFT AND EXTREMIST
ORGANIZATIONS AND INDIVIDUALS

Information has been received from Mr. Paul H. Wright of IRS that IRS, as a result of White House and Congressional pressure, is embarking on a program looking toward tax and gun law violations on the part of New Left, black extremist, and white extremist organizations and individuals connected therewith. Attached letter from IRS Assistant Commissioner Donald Bacon requests that IRS be placed on FBI dissemination for a number of these organizations under investigation by us.

Wright advised that as a result of considerable pressure from Congress and the White House, IRS has formed a Committee at IRS headquarters known as the Activists Organizations Committee, whose function is to collect all pertinent information relating to various New Left and extremist organizations, as well as individuals prominently connected therewith, and thereafter initiate field investigations and audits of these groups and individuals looking toward uncovering tax violations and violations of the Gun Control Act of 1968. In attached letter Bacon requests that IRS be placed on dissemination for our investigative reports involving 72 organizations. He requests that such dissemination be made to IRS headquarters, Room 3503, Attention Mr. Paul H. Wright.

A review of the list of organizations enclosed with Bacon's letter indicates the organizations are primarily of a New Left, black extremist or white extremist nature. Many of the organizations listed have not been investigated by us.

OBSERVATIONS:

A concentrated program of this nature, if properly implemented, should deal a blow to dissident elements. This action is long overdue. We have already disseminated to IRS reports on many of the organizations listed. It is felt that we should accede to the IRS request.

1 - Mr. C.D. Estouch
1 - Mr. W.C. Sullivan
1 - Mr. A. Rosen
1 - Mr. C.D. Brennan
DJB:ldj
8/15/69 - 2

1 - Mr. G.C. Moore
1 - Liaison of SEP 2/1969
1 - Mr. P.D. Putnam

CONFIDENTIAL

CONFIDENTIAL - OVER

Memorandum D. J. Brennan, Jr., to
Mr. W. C. Sullivan

RE: INTERNAL REVENUE SERVICE (IRS)
INVESTIGATIONS OF NEW LEFT AND EXTREMIST
ORGANIZATIONS AND INDIVIDUALS

ACTION:

1. If approved it will be explained to Assistant
Commissioner Bacon by Liaison that several of the organizations
he has listed are not under investigation by us but that we
will accede to his request in connection with those listed
organizations that we have currently under investigation.

OK
H

2. Attached for approval is a letter to all
Special Agents in Charge alerting them to the IRS program.

Span *WEL* *J* *REB* *mm*
1 *1* *1* *1* *1*

EXHIBIT 3

(EXCERPT FROM COMMUNICATION, SENIOR AGENT IN CHARGE ATLANTA TO DIRECTOR, FBI, DATED APRIL 14, 1964)

AT 100-6520-D
AFM:oit

[Redacted]

[Tax returns of [Redacted] and information from IRS] investigative files were recently received and analyzed.

[Paraphrase]

It is believed that donors and creditors of present two important areas for counter-intelligence activities. In regard to the donors it is suggested that official stationery bearing [Redacted] signature, copies of which are available to the Atlanta Office and will be furnished by separate communication to the Bureau Laboratory for reproduction purposes, be utilized in advising the donors that Internal Revenue Service is currently checking tax records of [Redacted] and that [Redacted].

Through this phoney correspondence wants to advise the donor insuring that he reported his gifts in accordance with Internal Revenue requirements so that he will not become involved in a tax investigation. It is believed such a letter of this type from [Redacted] may cause considerable concern and eliminate future contributions. From available information it is apparent that many of these contributors to [Redacted] are going so in order to claim tax deductions and in order to be eligible for such deductions, the contribution is being made to the [Redacted] Church, which in turn is forwarded to [Redacted].

EXHIBIT 4

2 February 1967

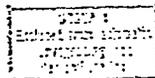
MEMORANDUM FOR:

SUBJECT: IRS Briefing on RAMPARTS

1. On 1 February 1967 I met with Thomas Terry, Assistant to the Commissioner, IRS to brief him on the current status of the RAMPARTS matter and to seek his cooperation. Also present were Leon Green, Executive Assistant to the Assistant Commissioner for Compliance and John Barber, Chief of Rulings, Exempt Organizations Branch. All three officials have been closely involved with us in the recent developments about USNSA and ^{in particular,} ^{Organization}

2. I told them of the information and rumors we have heard about RAMPARTS' proposed exposés with particular reference to USNSA and Org. I impressed upon them the Director's concern and expressed our certainty that this is an attack on CIA in particular, and the administration in general, which is merely using USNSA and its tools. To emphasize the nature of the problem I read to them excerpts from Mr. NAME memorandum of 25 January 1967 relating statements and actions of RAMPARTS officials in the period 22-25 January. We also discussed other probable sources of information being used by RAMPARTS, including the many leads which probably originated from the "Patman Eight" exposures. The possibility of Harry Olsper of Patman's staff having cooperated with RAMPARTS was mentioned.

3. Barber advised that the IRS examiner handling the USNSA reapplication for tax-exempt status has just completed his findings. He has recommended that USNSA be granted tax exemption under IRC Section 501(c)(4) which is the classification for "social welfare" organizations. In the examiner's view USNSA is disqualified for 501(c)(3) status as a political action organization. If it is exempt under 501(c)(4), donations to it will not be deductible by the donor and



SEP 20 1975

CIA

Declassified by authority

1 October 1975

It will be more difficult for it to get donations from organizations which are exempt under Section 501(c)(3). It was also pointed out that USNSA had become so notorious and the subject of so many public complaints to IRS that it had been put under audit and might have had its 501(c)(3) exemption revoked even if it had not been required to file a new application for exemption by virtue of its reorganization.

4. I suggested that the corporate tax returns of RAMPARTS, Inc. be examined and that any leads to possible financial supporters be followed up by an examination of their individual tax returns. It is unlikely that such an examination will develop much worth-while information as to the magazine's source of financial support, but it is possible that some leads will be evident. The returns can be called in for review by the Assistant Commissioner for Compliance without causing any particular notice in the respective IRS districts. The proposed examination would be made by Mr. Green who would advise me if there appeared to be any information on the returns worth following up. The political sensitivity of the case is such that if we are to go further than this, it will be necessary for the Agency to make a formal request for the returns under a procedure set forth in Government regulations. If such a request is made, the Commissioner will not be in a position to deny our interest if questioned later by a member of Congress or other competent authority.

5. This matter contains the elements for political repercussions against the Internal Revenue Service as well as this Agency and Mr. Terry feels that we can make no move until he has briefed the Commissioner. The Commissioner had already expressed concern over public comment about USNSA's tax exemption, even though he knew nothing at the time of the Agency's involvement with USNSA. Mr. Terry will brief the Commissioner as soon as possible and contact me when he has done so.

cc:

REL FROM

SEP 20 1975

CIA

EXHIBIT 5



I.G.R.U. H K

~~MEMORANDUM~~

6 December 1972

to: District Director
St. Louis District
Internal Revenue Service
from: Chief, Intelligence Division
San Francisco District.

subject: Tax Protest Movement

Attached herewith, for your information, is a copy of a list of various members involved in the tax protest movement. These individuals have been identified through investigations conducted in the San Francisco District relating to various tax protest groups. It is believed that some members of these groups are capable of violence against IRS personnel.

This information is furnished for your information and disposition.

Name deleted
Chief, Intelligence Division

RECEIVED

DEC 11 1972

INTELLIGENCE DIVISION
IRS - ST. LOUIS, MO.

Internal Revenue Service

TAX PROTEST (CONTINUED)

<u>NAME</u>	<u>CITY & STATE</u>
<u>M</u> (Cont'd)	
Montoya, Joseph (Sen)	____ New Mexico
	Tavernier, Florida
	Red Bluff, CA
	Mobile, Alabama
	Palermo, CA
	San Diego, CA 92116
	Bridgeford, Connecticut
	Pasadena, CA
Names deleted	Tacoma, Washington
	Red Bluff, CA
	Fresno, CA
	Valley Springs, CA 95252
	Merced, CA
	Cincinnati, Ohio 45205
	Pinedale, CA
	Berkeley, CA
	Fowler, CA

List of Organizations

The Student Non-violent Coordinating Committee

The Student Voice, Inc.

The Sojourner Motor Fleet, Inc.

The Southern Education and Research Institute, Inc.

The Congress of Racial Equality

The Students for a Democratic Society

The Black Panther Party

The Revolutionary Action Movement

The Deacons for Defense and Justice

The Nation of Islam.

The Afro-American Research Institute, Inc.

The Southern Conference Education Fund

The Progressive Labor Party

Rosen Publishing Company

Tri-Line Offset Company, Inc.

The Medical Committee for Human Rights

The Fund for Education and Legal Defense

The Minutemen

The American Nazi Party

The United Klans of America, Inc.

The White Knights of the KKK

The National States Rights Party

Afro-American Set

Allied War Prisoners Rescue Mission

Americans for Democratic Action

Americans for Freedom

Black Brotherhood

Black Turks

Black United Strategists

Black United Youths

Breakthrough

Christian Beacon, Inc.

Christian Echoes Ministry, Inc.

Church League of America

Citywide Citizens Action Committee

Civilian Resistance Command

Commandos L

Communist Party Youth Club

Congress of Freedom

Conservative Vice-Lords, Inc.

Dayton Alliance For Racial Equality

Fair Play For Cuba Committee

Free Corps

Free Speech Movement

Fund for The Republic, Inc.

Group For Advanced Leadership

Institute for American Democracy, Inc.

Institute for the Study of Black Unity

International Workers Order

- Interreligious Foundation for Community Organization, Inc.
- Life Line Foundations, Inc.
- Malcolm X Society
- Medgar Evers Rifle Club
- Militant Labor Forum
- Monroe Defense Committee
- Muslim Mosque, Inc.
- ✓ National Student Association
(Formerly U. S. National Student Association)
- Operation Breakthrough
- Organization of Afro-American Unity, Inc.
- Patriotic Party
- The Peace Foundation
- Protestants and Other Americans United for Separation of Church and State
- ✓ Louis M. Rabinowitz Foundation
- Republic of New Africa
- Senegalese
- Socialist Workers Party
- Soldiers of The Cross
- ✓ Southern Student Organizing Committee
- Unitarian Society
- United Black Community Organization
- ✓ W. E. B. Dubois Clubs
- Workers World Party
- Young Socialist Alliance

EXHIBIT 6

~~MEMORANDUM~~

July 9, 1974

to: Special Agents
IC&R Group, Jacksonville District

from: Group Manager
IC&R Group
Miami, Florida

subject: Payment to Confidential Sources (Informants)

The Internal Revenue Manual, Sections 372, 9372 and Policy Statement P-9-36 (copies of which are attached) provides guidance for payment to sources for confidential information. These instructions supplement the manual and are provided for your everyday guidance.

Payment for information will be made only when the information is not available otherwise. Each of you have non-paid sources. In those situations calling for payment for expenses or information, our approach will be conservative as to amounts paid but progressive as to seeking and getting the needed information.

Type of Funds

Imprest fund payments to confidential sources must be paid from the proper fund. If the information obtained relates to NTP, then the funds must be paid from NTP funds. The same applies to the TPG or Strike Force. When requesting funds, please specify the intended program.

Location of Funds

Confidential funds for the IG&R operation will be maintained in Miami in the custody of the IG&R Group Manager. Each IC&R agent at POD's outside of Miami will be advanced a small fund. An interim receipt will be signed for the advance. Expenditures from the advance will not be made without the approval of the Group Manager.

Internal Revenue Service

Types of Payment Authorized

Payment may be authorized for expenditures from the confidential funds for:

- (1) Expenses for or in behalf of source.
- (2) Information.
- (3) Securing evidence.

Type of expenses includible (among others) may be hotel room or other space rental, auto rental, travel, food and beverage, or utilities and phone.

Payment will not be authorized for "front" money or a promise by the source that he will deliver in the future. In some circumstances authorization will be granted to advance expense money.

Type of Information Sought

Information which we seek and for which we will make payment is contained in Policy Statement P-9-36. We must guard against using the confidential fund in any other way. Payment for information is made only when the information is unavailable otherwise. For example, payment will not be made for an arrest report when such a report is public record. Neither will we pay a source to search public records for us or to do other type investigative work.

Authorization for Making Payment

Each expenditure from the confidential fund will be approved by the Group Manager before payment is made to the source (informant) or before any expenses are incurred by the source. After the source has been debriefed, the special agent will write a memorandum to file of information obtained and/or expenses incurred. This memorandum will be forwarded to the Group Manager for review. The special agent will attach to the memorandum a note recommending amount of payment and will also recommend distribution of the memorandum. After review, the Group Manager will authorize payment to the source by the agent and set the amount of payment. The Group Manager will notify the agent of the amount approved. After approval, the agent can use funds on hand for payment.

At time of payment, the agent will obtain a receipt (Standard Form 1165) from the source. The receipt will be forwarded, along with a signed "Confidential Expenditure from Imprest Fund" form DIR J INT-52, to the Group Manager.

General

Under no circumstances will "regular" payments be made to a source. That is, we have no one on the payroll. We only pay for information received, as evaluated and recommended by the special agent and approved by the Group Manager.

Each of us must exercise care in submitting any vouchers or claims for reimbursement when the special agent is involved in dining with the source. In such a situation, payment will only be made for expenses incurred by the agent over and above what he would normally have spent for a meal. All of us have been given a big responsibility in handling imprest funds. We must use these funds carefully and frugally.

In the event of any emergency situation, please call the Group Manager for information and authority for payment.

NAME DELETED

Attachments

cc: Chief, Intelligence Div.
Jacksonville District

INSTRUCTIONS TO GROUP

J.K.W.

Instructions from J.K.W.

1. Reduce fund to \$500.00 for F.L.L. Ha Ha Ha
2. Restrict pay out to \$250.00 ^{Ha Ha Ha} without prior approval.
3. Do not pay any money to group managers Ryan or McCall or any.
4. Vary payments more.
5. Turn 971143 over to $\frac{1}{2}$ Hilker.
 ✓ 971155 ✓ ✓ $\frac{1}{2}$ Grant.
6. After each payout rendezvous with another $\frac{1}{2}$ of J.K.W. & hand deliver receipt, voucher and report & pick up reimbursement check.
7. Said he would give me instructions in writing to minimize misunderstanding.

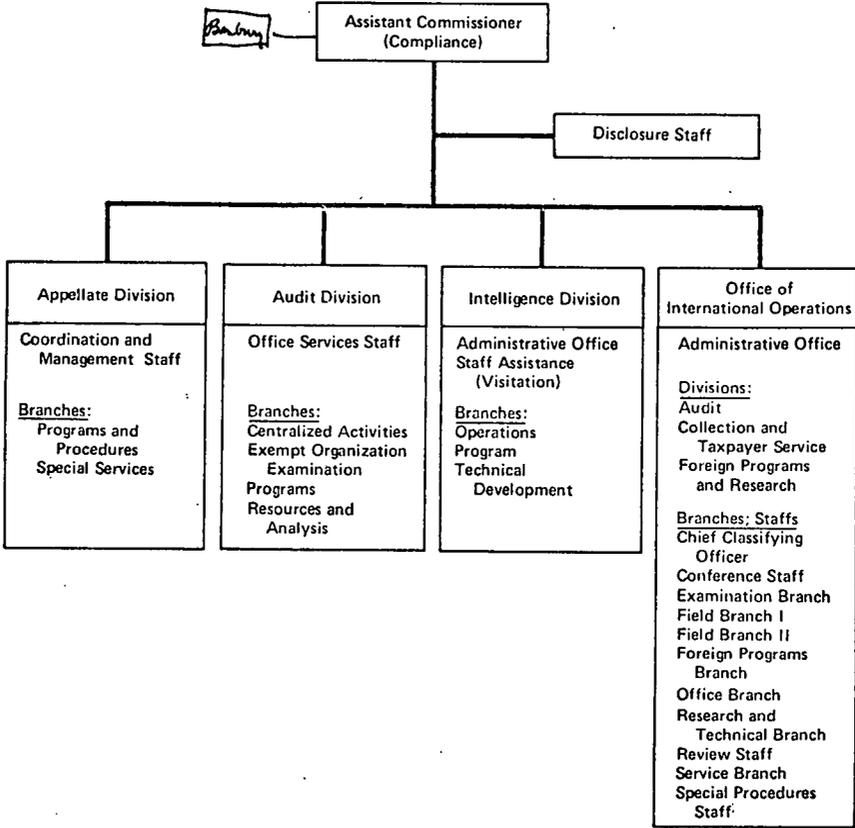
John V. Amosson

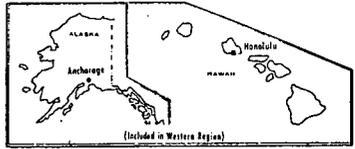
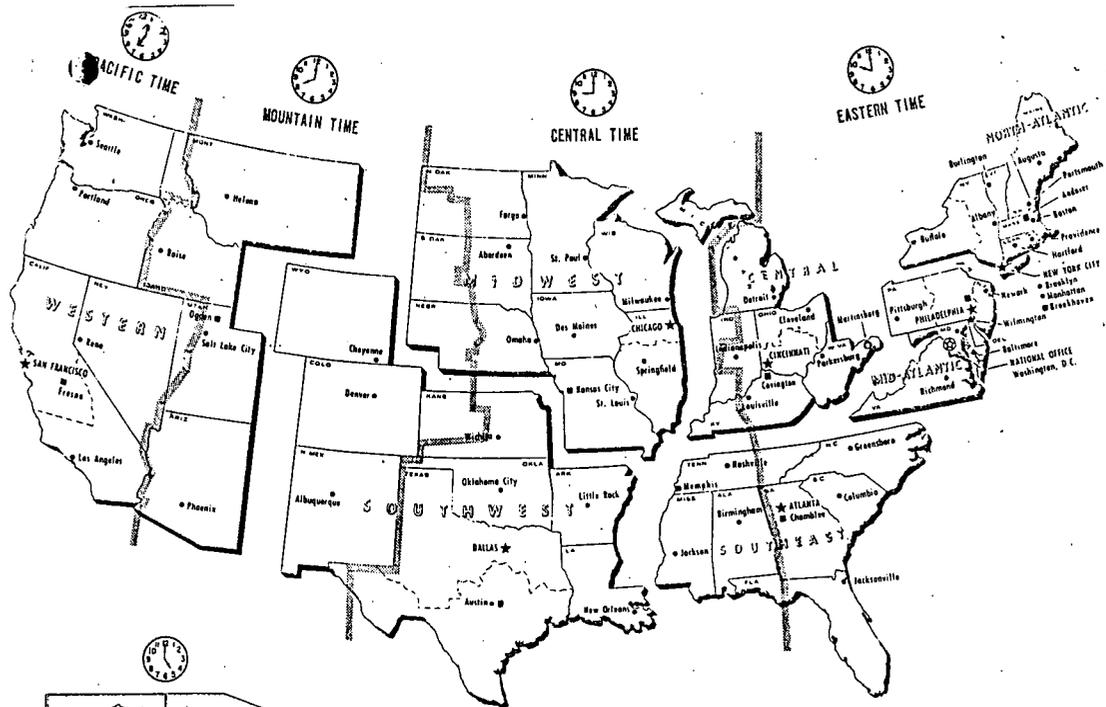
EXHIBIT 7

Organization and Functions of the Internal Revenue Service

Exhibit 1113-4

Organization of the Office of Assistant Commissioner (Compliance)





- LEGEND
- ▬▬▬▬ Regional Boundary
 - ▬▬▬▬ District Boundary
 - ⊙ Commissioner of Internal Revenue (Washington, D. C.)
 - ★ Regional Commissioner - District Director
 - District Director
 - Service Center
 - ⊙ National Computer Center (Martinsburg, W. Va.)
 - ⊙ IRS Data Center (Detroit, Mich.)

EXHIBIT 8

Department of the Treasury
Internal Revenue Service

Internal Revenue Service

Washington, D. C. 20548

Date: 6 JUN 1974

In reply refer to

I:IA



Honorable Donald C. Alexander
Commissioner of Internal Revenue
Washington, D. C.

Dear Commissioner Alexander:

This transmits a copy of our report of results of the special on-line audit of narcotics termination assessments.

The Service has made approximately 3,500 narcotics termination assessments totaling \$104 million since August 1971. These assessments have generally been made under tight time constraints based on information furnished by local law enforcement agencies with little or no independent investigation by the Service. The information furnished is generally not sound evidence, but primarily consists of projections, opinions or conclusions of the local law enforcement officers. The investigations are not of the same depth as normal audit examinations.

In these cases, field agents initiate immediate assessments in order to seize assets in custody of local authorities before the assets are reclaimed by the taxpayers or their attorneys. The individuals arrested by local police generally remain in their custody for less than 24 hours.

We found that procedures and practices used in terminating the tax years vary nationally from district to district, and as a result tax laws and regulations are not applied consistently and equitably to all taxpayers.

The terminations are usually made on the basis that the taxpayer's illegal narcotics involvement constitutes a "prima facie" case. With few exceptions, there is no other hard evidence that income taxes are due or that collection of taxes are in jeopardy.

Commissioner Alexander

Since the Service does not issue Statutory Notices of Deficiency in these cases the taxpayers do not have the administrative appeal rights afforded to taxpayers subjected to jeopardy assessments or tax deficiencies arising from normal audit procedures. This fact coupled with the fact that the majority of the termination assessments are not supported by hard documented evidence gives rise to the distinct possibility that: (a) irreparable harm may be suffered by some of the taxpayers; and (b) the Service may be accused of assessing tax liabilities without due process of law.

The weaknesses in the termination assessments are illustrated by the results of full year follow-up examinations which often result in substantial reductions and refunds to the taxpayers when detailed examinations are made. In other instances where the taxpayers do not file full year returns, quality examinations are often not conducted. In these cases, the full year liability generally approximates the short period liability.

In order to gain more time to conduct an investigation, one district issues a summons to local police for assets in possession of the narcotics law violator at the time of arrest. The local police hold the property for up to ten days while the Service conducts an investigation. A similar practice in another district was discontinued in late 1973 after Regional Counsel rendered an opinion that this practice was an improper use of a summons.

Due to the common characteristics of these termination assessments, one adverse Supreme Court decision could affect hundreds of cases. For instance, if the Supreme Court should affirm a recent decision by the 6th Circuit Court of Appeals requiring the issuance of a Statutory Notice of Deficiency within 60 days of a termination assessment, all termination assessments may be rendered invalid. The Service has received other adverse decisions on termination assessments in lower courts, and has compromised other cases after the taxpayers filed suit.

Commissioner Alexander

Copies of the report have been transmitted to the Assistant Commissioner (Compliance) and the Assistant Commissioner (ACTS).

We will be pleased to discuss the report with you if you wish.

Sincerely,

Name deleted

— Assistant Commissioner
(Inspection)

Attachment

Internal Audit Report
on the
On-Line Audit of the Narcotics Traffickers
Program - Termination Assessments

Introduction and Scope of Audit

This report summarizes results of a special on-line audit requested by the Commissioner. The audit objectives were to determine whether Service policies, procedures, and practices used in terminating the tax years of narcotics subjects are in accordance with income tax laws and regulations and whether these policies, practices, and procedures are applied consistently and equitably in arriving at factually supported tax determinations.

Reviews were made in the Los Angeles and San Francisco Districts in the Western Region; in the Chicago and St. Louis Districts in the Midwest Region, and the Jacksonville and Columbia Districts in the Southeast Region. This report consolidates the findings resulting from these reviews as well as findings resulting from other recent audits.

Summary of Results of Review

We found that procedures and practices for terminating tax years of narcotics law violators vary nationally from district to district, and that as a result, tax laws and regulations are not applied consistently and equitably to all taxpayers. For instance, all six districts included in the review generally set a minimum value of assets seized ranging from \$500 to \$2,000 in determining whether a case should be considered for termination action. Also, the employees responsible for preparing termination reports (revenue officers, revenue agents, or special agents) vary from district to district.

Five of the six districts rely primarily upon information furnished by other law enforcement agencies and informants in making termination assessments. The information is generally received telephonically, and is often based on personal opinions, projections, conclusions or hearsay evidence rather than specific documented facts

concerning the subject. In some cases other minimal independent investigations are made by the Service; however, they are not of the same depth as normal audit examinations.

The sixth district, Jacksonville, issues a summons to local police for assets in the possession of a narcotics subject at the time of arrest. The police then hold the taxpayer's property for up to ten days while the Service conducts an investigation. A similar practice in one district in the Southwest Region was discontinued in 1973 after Regional Counsel rendered an opinion that this practice was an improper use of a summons.

Generally, all six districts terminate the tax years of narcotics law violators on the basis that the taxpayer's illegal narcotics involvement constitutes a "prima facie" case in which termination assessments should be made (IRM 4585.3). With few exceptions, there is no other hard evidence that income taxes are due or that the collection of such taxes are in jeopardy in these cases.

Although the burden is upon the Government in proving taxable income in these cases, the tax assessments are generally based upon taxable income estimated by a variety of methods. Due to the limited information available, these methods are generally not effective in determining a factually documented taxable income. For example, when the net worth and expenditures method is used, the taxpayer's net worth at the beginning and the end of the tax period is generally unknown. In addition, estimated costs of living expenses, which are often included in the net worth and expenditure computations, are generally not supported by facts in the case file. Other methods are usually equally ineffective in arriving at a factually documented taxable income due to the lack of detailed information.

The weaknesses in the termination tax assessments are further illustrated by the fact that the full year follow-up of these examination cases often results in substantial reductions in the tax assessments and refunds to the taxpayers. For instance, the full year examination of 24

termination assessment cases in the Chicago District resulted in recommendations that the termination tax assessments be reduced in all 24 cases. It was recommended that assessments totaling \$910,200 be reduced by \$772,500 to \$137,700. If the cases are settled on this basis, the taxpayers will be due refunds totaling approximately \$136,000. Conversely, in the Los Angeles District the review of 55 cases where the substitute for return procedure was used disclosed that the substitute returns were based primarily on the same information used to compute the termination period income. As a result there were 30 cases where the full year income was the same as the termination period income. In the remaining 25 cases the income was more or less than the termination period income, however, facts to support the changes were not fully documented in the file.

Due to the common characteristics of these termination assessments, one adverse Supreme Court decision could affect hundreds of cases. For instance, if the Supreme Court should affirm a recent decision by the 6th Circuit Court of Appeals requiring the issuance of a Statutory Notice of Deficiency within 60 days of a termination assessment, all termination assessments may be rendered invalid. The Service has received other adverse decisions on termination assessments in lower courts, and has compromised other cases after the taxpayers filed suit.

On June 17, 1971, the President announced the Administration's expanded effort to combat drug abuse. Included in the Presidential message was a charge to the Internal Revenue Service to conduct systematic tax investigations of middle and upper echelon narcotics traffickers.

Generally, the interpretation of the Service policies and procedures by the field has been to terminate an individual with a history and background of illegal activities coupled with a current arrest for narcotics violations.

The field agents of the Service have been faced with a requirement to make immediate assessment to prevent dissipation of the assets seized by local authorities at the time of arrest. Usually it becomes a race with the taxpayer

and/or his attorney. The majority of these assessments are based primarily on the information from the arresting officers because of the short time pressure factor. The individuals arrested usually have liquid assets only and remain in the custody of police less than 24 hours.

During the review, a District Director stated that there is not sufficient time to perfect a case to the extent that it would hold up in Court.

Appendix A summarizes the number and amounts of termination assessments made in the six districts tested and United States totals by Region for fiscal years 1972, 1973, and the first three quarters of 1974.

for R.W. Clenka
W. C. Rankin, Jr.
Director, Internal
Audit Division

Details of Results of ReviewGeneral Procedures

We found that the procedures and practices for terminating tax years vary from region to region and within the regions from district to district. As a result, tax laws and regulations are not applied consistently to all taxpayers. For example, all six districts included in this special review generally set a minimum value of assets seized in determining whether a case should be considered for termination action. The Columbia District requires a minimum of \$500 cash seized for a termination action while the Jacksonville District requires \$2,000 in total assets seized.

In Los Angeles termination assessments were made against taxpayers who had been arrested for possession and or sale of narcotics with cash or readily identifiable assets in excess of \$1,000. In San Francisco termination assessments were made against taxpayers who had been arrested on charges of sale of narcotics where there is information to show that income has been earned from that activity and that the taxpayers had cash or readily identifiable assets of at least \$1,000.

In the St. Louis and Chicago Districts generally only those taxpayers who had at least \$1,000 in their possession at the time of the arrest were terminated.

Internal Revenue Code Section 6851; Policy Statement P-4-89; and Internal Revenue Manual Section 4585, generally set forth specific circumstances and/or action by taxpayers that would jeopardize collection of taxes when subsequently due, and therefore provide a basis for tax year termination, assessment, and collection of taxes not otherwise due. The specific conditions and circumstances for tax year termination and assessment under IRC Section 6851 are summarized in Policy Statement P-4-89 (Approved 10-2-70) as follows:

"Termination of taxable period and assessment should be used sparingly and care should be taken to avoid excessive and unreasonable assessments. They should be limited to amounts which reasonably can be expected to equal the ultimate tax liability for the terminated period. Each termination of taxable period and assessment must receive the personal approval of the District Director or the Director of International Operations.

"A termination of taxable period and assessment will not be made without the existence of at least one of the three following conditions, unless prior approval is obtained from the Director, Audit Division:

- (1) The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself.
- (2) The taxpayer is or appears to be designing quickly to place his property beyond the reach of the Government either by removing it from the United States, or by concealing it, or by transferring it to other persons, or by dissipating it..
- (3) The taxpayer's financial solvency is or appears to be imperiled. (This does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, penalty and interest.)"

Internal Revenue Manual Section 4585 and Section 3(11)4 of the Techniques Handbook for In-Depth Audit Investigations, IRM 4235, provide requirements and specific guidelines for tax year terminations and documentation required, to the extent practicable, for termination investigations, and recommendations and approval of termination actions. The required documentation, to the extent practicable, includes:

- (1) The name, address, and filing history of the taxpayer.
- (2) Tax and penalty to be assessed by periods.
- (3) The nature of the taxpayer's business or activity; the taxpayer's financial condition; information regarding the taxpayer's activity giving rise to the termination recommendation, such as transferring assets without consideration or attempts to hide assets, etc.; information regarding business losses; the nature and location of the taxpayer's assets and sources of income; and the taxpayer's record of resisting payment of taxes in the past.
- (4) Any other information regarding the taxpayer's financial condition, prospects for future losses, etc.

Review of recent termination recommendation reports and case files in the six districts showed that the files and reports were generally not documented with facts to show specific circumstances or acts by the taxpayers that would make collection of the taxes, when due, ineffective. Instead, the districts generally terminated the tax years on the basis that the taxpayer's illegal narcotics involvement constituted a "prima facie" case in which termination assessments should be made (IRM 4585.3).

However, IRM 4585.3 specifically requires that "prima facie" tax year terminations for taxpayers arrested on charges of possession and/or sale of narcotics should be supported by documented information to establish a factual foundation to show that subsequent collection of the taxes, not yet due, was in jeopardy, and that the termination actions were within the statutory provisions of IRC Section 6851.

Operating personnel stated that assessments must be made immediately in order to prevent the taxpayers from assigning their liquid assets to attorneys or other persons with the effect of placing them beyond the reach of the Service and that it is generally not possible to obtain specific factual documentation in the time available.

In the Jacksonville District the review indicates that the problem of immediate assignment of assets to others has been circumvented, at least temporarily by the immediate issuance of an IRS summons to the arresting officers. On receipt of the summons, local police retain possession of the taxpayer's "property", including cash, for 10 days. While having no legal effect on the ability of a narcotics violator to assign away his liquid assets, it has been effective in preventing the dissipation of his assets in this manner and has allowed the examining agent additional time for case preparation.

However, a recent review in the Oklahoma City District showed that summonses have been used in that district also. In May 1973, Regional Counsel interpreted the issuance of a summons for this purpose as an improper application of the provisions of IRC Section 7602 and recommended discontinuance of the practice.

Differences were noted also in the placement of responsibility for preparation of termination documents. In Los Angeles termination reports are prepared by revenue officers in the Offer-in-Compromise Group while in San Francisco the reports are prepared by revenue agents in the Narcotics Group.

In the Chicago District the special agent assigned to the team will initially be advised of the referral and in-turn will contact the revenue agent and revenue officer. The revenue agent has the responsibility of preparing all documents necessary for a valid assessment upon approval of the team leader. The special agent has the prime responsibility for the coordination with other agencies and the control of any criminal aspects of the case.

In the St. Louis District any division may originate the recommendation for a termination assessment although the Intelligence Division is generally the initial contact point for the other law enforcement agencies.

In the Jacksonville District the revenue agent initiates the termination action, while in the Columbia District the special agent has primary responsibility.

In four districts in the Central Region the use of termination assessments has been restricted because of a recent decision by the 6th Circuit Court of Appeals requiring issuance of statutory notices of deficiency.

Instructions in the North-Atlantic Region require that Regional Counsel be consulted in each case where a tax year termination assessment is being considered.

Examination Procedures - Short Year Terminations

The burden is on the Service to prove the existence of taxable income in termination actions. However, we found that generally these assessments were based on income estimated by a variety of methods which have for the most part proven ineffective in factually determining taxable income. The following assumptions were usually necessary in the income determinations: that income was earned during the period terminated; that funds on hand or used to purchase the drugs were from taxable sources; and that the funds were taxable to the individual in possession of the cash and/or narcotics.

In the Los Angeles and San Francisco Districts computations of taxable income were based primarily on information provided by law enforcement officers regarding the circumstances of the arrest for sale or possession of narcotics.

In 14 of 19 recent termination assessment cases reviewed in Los Angeles, the net worth and expenditures method was used in computing taxable income. In 4 of the 14 cases a

cost of living estimate was not included in the income computation. In the other 10 cases cost of living estimates ranged from \$400 to \$1,500 per month, but the files were not documented with specific facts to support the estimates. For 11 of the 14 cases, the taxpayers' marital status was not determined. In one case, the taxpayer was allowed a deduction for dependents, but the files in the other 13 cases did not establish whether the taxpayers were entitled to deductions for dependents.

The estimated gross sales method was used to compute termination income in the remaining five cases. In four of the five cases the taxpayers were allowed deductions from gross sales for the cost of narcotics sold. In the other case the taxpayer was not allowed the deduction. Also, the case files showed that three of the five taxpayers were married; however, the termination income was assessed against the taxpayer only and was not divided between the taxpayer and spouse in accordance with community property provisions.

In 24 of 26 recent termination assessment cases reviewed in the San Francisco District, the net worth and expenditures method was used in computing taxable income. In these 24 cases, cost of living estimates ranged from \$500 to \$1,500 per month. In 20 of the 24 cases, the estimates were not supported by specific facts or information in the case file. For all 24 cases, the investigations included a determination of the taxpayer's marital status. For the cases where the taxpayer was married, the termination income was divided in accordance with community property and income provisions. Also, where it was determined that the taxpayers were entitled to deductions for dependents, those deductions were allowed.

In the remaining two cases, termination income was computed by the estimated gross sales method. The taxpayers were married and the income was divided in accordance with community income provisions. The projected gross sales were based on specific admissions by the taxpayer.

In Chicago the net worth and expenditures method was used in computing income in 13 of 18 recent termination assessments reviewed. In the 13 cases, cost of living estimates ranged from \$50.00 per week to \$40.00 a day. None of the estimates were supported by specific facts in the files.

In the other five cases the income was computed by the estimated gross sales method. In one of the cases, estimated sales were based on hearsay evidence from an informant. In the other four cases, the assessments were based on specific information regarding periods of surveillance, "controlled" purchases, and statements from informants.

In 19 of the 25 recent termination assessment cases reviewed in the Jacksonville District the computations of income were based on a projection of sales over the terminated period. In 10 of the 19 cases the files did not clearly show the basis for the figures used for estimated weekly sales. In most instances, the tax liability determined was closely related to the assets seized. In this regard, the Group Manager explained that in determining the amount to be assessed, the amount expected to be realized from proceeds of the seizure and sale of taxpayer's assets is taken into consideration; that making a large assessment based on information from informants or police estimates would probably leave the Service in an indefensible position in Court if the Service could not show that the taxpayer had assets to support the income estimates.

The income in the other six cases was computed on either the cost of drugs or cost of habit method and the support was considered adequate.

In the St. Louis District taxable income was computed by the estimated gross sales method in two of three termination assessments reviewed. The income computations were not supported by documented facts in the case file. The income computation in the third case was based on a specific income item. In all three cases information that the taxpayers were married was not used, and in two cases information that the taxpayers had dependents was not used.

The computations of income in the eight cases reviewed in the Columbia District were based on a projection of estimated sales over the terminated period. However, in two of the eight cases, the case files either did not clearly show the basis for the estimated weekly sales figures that were used or the file did not clearly show that the length of time the taxpayer had been selling narcotics had been established.

A recent on-line audit report showed that in six of the ten most recent termination cases in the Austin District, the files did not contain substantiation for one or more statements made by narcotics experts which were used in computing taxable income. In one case the file did not substantiate the sales volume of 50 kilos per week or the cost price of \$80 per kilo. In another case, the file did not substantiate the source or basis of the cost price of seized heroin, nor did the case file include substantiation for estimated living expenses of \$13 per day.

Another recent review in Atlanta showed that the case files did not contain prescribed support for the basis used in estimating receipts from sales of narcotics in 24 of the 29 cases tested. No information was shown regarding the length of time taxpayer was in the narcotics business and no support was shown for the basis used in estimating gross sales except that the estimates were those of a narcotics expert. In five of the cases the assessments were supported by documented facts.

Examination Procedures - Full Year Tax Returns

Full year tax returns of narcotics violators previously terminated are subject to an audit examination whether the taxpayer has voluntarily filed a return or not. If the taxpayer has not filed a full year return, substitute for return procedures are followed.

In the Los Angeles District 61 full year 1972 examinations (63 terminations) were reviewed. In six cases where the taxpayers had filed full year tax returns, the examinations were of adequate scope and depth. In five cases, the examinations resulted in significant reductions to the short period tax liability while the sixth case resulted in no change to the short period liability.

In the remaining 55 cases substitute for return procedures were used. We found that in-depth examination procedures were not employed to include: (a) attempts to contact taxpayers or other third parties who would have knowledge of the taxpayers' income producing activities, (b) specific steps to identify changes during the year in the taxpayers' net worth by reviewing bank accounts, (c) attempts to identify assets acquired or sold, and (d) attempts to determine the taxpayers' style of living. The examinations primarily relied upon information developed by the termination investigation. The full year income computations were the same as the termination period income computation in 27 cases and were the same as the termination period income adjusted for annualization of the estimated cost of living rate in three cases. In the other 25 cases the full year income computations were more or less than the termination period income; however, facts to support the changes in income were not fully documented in the case file. Nineteen of the 30 examinations where the full year income was the same as the termination period income involved cases where termination period income computations were not supported by specific facts.

In San Francisco 12 full year 1972 examinations were reviewed. In four cases, the taxpayers had filed full year returns and in the other eight, substitute for return procedures were used. We found that in-depth examination procedures, to the extent practical, were used in all 12 cases.

The full year examination of 24 termination assessment cases reviewed in the Chicago District resulted in recommendations for reductions in the termination tax in all 24 cases. It was recommended that assessments totaling \$910,200 be reduced by \$772,500 to \$137,700. If the cases are settled on this basis, the taxpayers will be due refunds totaling approximately \$136,000.

In the St. Louis District four full year examinations had been closed with recommended assessments of \$19,727.46. Termination assessments for these cases originally totalled \$83,190.15. Therefore, full year examinations resulted in reductions totaling \$63,462.69.

The full year examination of 29 termination assessment cases reviewed in the Jacksonville District resulted in termination assessments totaling \$668,250 being reduced by \$329,406 to \$338,844. Most of this difference was attributable to seven cases.

In Columbia the full year examination of 12 cases resulted in recommendations to reduce termination tax assessments from \$634,253 to \$28,701.

Contested Cases

Reviews were conducted in the San Francisco, Los Angeles, and Jacksonville Districts to determine the Service's experience in defending termination assessment cases in court, with particular emphasis on reasons for the Service having lost any contested cases.

Reviews of the Regional Counsel General Litigation files for Los Angeles and San Francisco District cases disclosed that there have been six contested narcotics cases since June 30, 1972. Two cases were in the Los Angeles District and four cases were in the San Francisco District. Five of these cases were reviewed to determine why the taxpayers had initiated litigation to enjoin the Service from assessment or collection actions. In these cases Regional Counsel identified potential weaknesses in the Service's position as follows: (1) termination income and tax computation were not fully supported by specific facts (3 cases); (2) taxpayer had not received a Statutory Notice of Deficiency for the termination assessment (1 case); and (3) collection action had been initiated before the taxpayer could have received the termination letter (1 case).

In two cases the complaints were dismissed by the taxpayers based on the Service's agreement to compromise the liability. In the third case the taxpayer's suit was dismissed on the basis that the Court lacked jurisdiction to enjoin the assessment and collection of Federal taxes. In the fourth case the judge continued the case in open status with proceedings suspended, pending settlement of appeals on similar cases involving issuances of Statutory Notices of Deficiency for tax year terminations. The fifth case was closed when the full year examination shifted substantially all of the termination income to prior tax year.

Reviews of 11 contested cases in the Jacksonville District disclosed that the Government's position had been upheld in seven cases, the Government had lost one case in District Court, and three cases were still pending in District Court. In the case the Government lost, Chief Counsel recommended that the Government appeal the decision. In this case, the Government was enjoined from collection of the assessment and was ordered to return the moneys seized. The taxpayer had alleged that the District Director's findings were made without sufficient investigation to support his conclusions and without any true facts to reasonably support the issuance of the termination letter; that the District Director had not issued a notice of deficiency; and that the termination was made at the request of the local law enforcement officials to harass, annoy, and punish the taxpayer and was not done in order to protect the revenue and collect a tax that seemed to be in jeopardy. The taxpayer further alleged that unless the District Director was restrained, the taxpayer would be irreparably injured, inconvenienced, and damaged and his property would be taken from him in violation of due process and equal protection clauses of the Constitution of the United States.

In addition, the St. Louis District forwarded seven termination files to Regional Counsel in January 1974 requesting advisory opinions as to whether the cases would be upheld in Court if the taxpayer protested the assessments. The responses from Regional Counsel showed that five of the cases were weak from the standpoint of litigation and indicated little probability of success should the cases go to trial.

In the Central Region a decision by the 6th Circuit Court of Appeals on February 12, 1974, (Charles R. Rambo v. United States, et. al.) held that notices of deficiency must be issued within 60 days after making termination assessments under Section 6851. However, the Service position is that such notices are not required until a full year return has been filed. Due to the Rambo decision, Regional Counsel suggested that termination assessments be restricted and that jeopardy assessments under Section 6861 be used when possible. Regional Counsel also suggested that when termination assessments are made that property be protected by filing a notice of lien or notice of levy in order to freeze the funds or property rather than to seize and sell.

APPENDIX A

SUMMARY OF TERMINATION ASSESSMENTS

	Number of Termination Assessments			Total Dollars Assessed			Average Dollar Amount of Assessment		
	Fiscal Year			Fiscal Year			Fiscal Year		
	1972	1973	9 Mos. 1974	1972	1973	9 Mos. 1974	1972	1973	9 Mos. 1974
<u>Six Test Districts</u>									
Columbia	6	29	17	\$ 24,563	\$ 240,479	\$ 75,385	\$ 4,093	\$ 8,292	\$ 4,434
Jacksonville	9	128	100	166,562	2,842,626	1,356,985	18,506	22,208	13,569
Chicago	28	116	91	584,526	3,997,378	13,928,487	20,875	34,460	153,060
St. Louis	3	24	16	11,730	807,275	218,953	3,910	33,636	13,684
Los Angeles	72	273	188	5,119,267	9,564,026	6,343,312	71,100	35,033	33,741
San Francisco	37	109	115	2,251,063	1,053,864	902,913	60,839	9,668	7,851
<u>Regional Totals</u>									
North Atlantic	110	179	48	\$6,626,955	\$9,498,634	\$ 1,129,044	\$60,245	\$53,064	\$23,521
Mid-Atlantic	44	106	47	1,380,959	3,331,251	755,427	31,385	31,426	16,072
Southeast	76	283	207	1,424,068	4,750,542	2,247,444	18,737	16,786	10,857
Central	43	161	114	2,458,891	2,124,753	1,561,355	57,183	13,197	13,696
Midwest	59	205	174	1,423,068	6,723,714	15,746,075	24,119	32,798	90,494
Southwest	65	308	184	1,125,315	4,983,487	4,991,736	17,312	16,180	27,129
Western	145	538	375	8,054,995	15,480,964	8,543,360	55,551	28,775	22,782
<u>United States Total</u>									
	542	1,780	1,149	\$22,494,000	\$46,893,000	\$34,974,441	\$41,501	\$26,344	\$30,439

EXHIBIT 9

APR 18 1973

Chief, Audit Division
Chicago, Illinois

Chief, Intelligence Division I:102
Chicago, Illinois

Request for Services of Accounting Clerk **deleted**

We recently attended a public meeting of the Illinois Tax Rebellion Committee in an undercover capacity. This organization advocates non compliance with the IRS laws, and we have therefore begun to monitor their meetings and other related activities. We have found that the organization is very suspicious of IRS personnel attending these public meetings, and we believe that if a female were to accompany the special agent less attention would be drawn to him, thereby improving his cover. The Intelligence Division in Los Angeles, California, which successfully infiltrated this organization in California, commented that they would have been unable to do this without the use of female personnel.

Accounting Clerk **deleted** has assisted the Intelligence Division in a variety of clerical assignments in the past, and we believe that she would be an excellent selection to accompany the special agent in the attendance of these meetings. She has indicated to us informally that she would be available to assist in this assignment, and we request your approval.

Name **deleted**

EXHIBIT 10

Excerpt from a 1974 IRS Internal Audit Report2. Activities of a National Office Undercover Operative and the Trial of a Tax Protester

This situation involved actions of a National Office Undercover Operative used to secure information relative to the tax protester movement in the Los Angeles area. The operative had worked himself into a position of authority with the ~~tax protester~~ ~~of the Los Angeles area.~~

A document (preparer unknown), secured by Internal Audit at the National Office, Intelligence Division, reported on the actions of the undercover operative while in the Los Angeles area. The document notes that, "Sometime in the latter part of 1973, the operative obtained information through private discussions with [the tax protester being tried and two of his associates] relative to the criminal litigation on [the tax protester]. During these discussions, the operative determined that [the tax protester] was going to base his defense upon the issue of unlawful money. The operative obtained a copy of the brief prepared by the above three individuals, for use in a motion to dismiss one of the counts of [the tax protester's] indictment and accordingly the Intelligence Division was able to notify the U.S. Attorney and also do additional research in order for the U.S. Attorney to properly answer this motion. The motion was finally filed in January 1974, while the Intelligence Division had this information available to it several months before the actual filing date."

The document also noted that, "The undercover operative has supplied his contacts with statements relating to intent and future defenses of the following individuals currently or previously under investigation by the Intelligence Division [the document lists the above

tax protester and six other individuals]. The undercover operative has been visited by [the tax protester's attorney] on occasions and has attended one meeting at [the attorney's] home. [The tax protester's attorney] confers with and advises the majority of tax rebels under investigation by the Intelligence Division."

While the report of activities of the undercover operation is specific as to the fact that "the operative obtained a copy of the brief prepared by the above three individuals. . .", we have been unable to locate that brief. Our review of this matter, along with other matters relative to the tax protester noted above, are continuing.

EXHIBIT 11

April 15, 1975 1:15:AVR:iow

Deleted

Assistant U.S. Attorney
 Room 1217A, U.S. Courthouse
 312 No. Spring Street
 Los Angeles, California 90012

Dear **Name deleted**

As requested, statistics were compiled relating to Failure to File (26 USC 7203) and False Withholding Statements (26 USC 7205) investigations conducted by the Los Angeles District I.R.S. Intelligence Division. The figures reflected below were compiled through an analysis of the case inventories (Form 834) and other documents maintained by the Intelligence Division from 1971 to the present. The investigations, which may or may not have culminated in a recommendation for prosecution, relate to the 1970 through 1973 tax years. The following is a summary of the analysis:

Total Failure to File Investigations (7203)	150
Tax Protesters Investigated for Failure to File (7203)	46
Percentage of Failure to File Investigations (7203) Involving Tax Protesters	30%
Total False Withholding Statements Investigations (7205)	24
Tax Protesters Investigated for False Withholding Statements (7205)	24
Percentage of False Withholding Statements Investigations Involving Tax Protesters	100%

The work papers reflecting the details of the above summary are attached.

Sincerely,

Name deleted

Group Manager, Group 15
 Intelligence Division

Attachments

<u>YEAR</u>	<u>TAX INVOLVED</u>
1972-73	1971 \$ 70.99 1972 1,344.05
1971-72 (One count W-4)	1971 193.39 1972 891.59
1971 (One count W-4)	1971 \$ 990.23

RECOMMENDATIONS AGAINST SELF-PROCLAIMED
TAX PROTESTERS PURSUANT TO INTERNAL
REVENUE CODE OF 1954, §7203

<u>CASE</u>	<u>YEAR</u>	<u>TAX DUE</u>	<u>GROSS INCOME</u>
	1970	\$ 523.72	\$ 8,427.56
	1971	577.92	9,130.09
	1972	187.19	9,765.21
	1970	523.73	8,427.56
	1971	577.92	9,130.09
	1972	187.20	9,765.21
	1972	633.23	7,062.82
	1972	365.64	4,676.36
	1973	3,098.87	15,961.82
	1972	960.26	9,476.00
	1973	1,448.60	9,601.00
	1971	990.23	7,642.61
	1971	70.99	12,596.31
	1972	1,344.05	12,281.84
	1971	193.39	6,415.80
	1972	891.59	6,780.78
	1970	6,725.39	47,328.66
	1971	3,912.37	75,836.14
	1970	2,606.50	67,692.40
	1971	75.00	16,823.17
	1970	1,987.54	74,997.04
	1971	1,748.45	\$27,155.17

<u>YEAR</u>	<u>TAX DUE</u>	<u>GROSS INCOME</u>
1971	\$ 676.53	\$12,747.28
1972	942.40	13,174.73

RECOMMENDATIONS AGAINST PERSONS WHO ARE NOT KNOWN OR BELIEVED TO BE MEMBERS OF THE ORGANIZED TAX PROTESTER MOVEMENT PURSUANT TO INTERNAL REVENUE CODE OF 1954, §7203

<u>CASE</u>	<u>YEAR</u>	<u>TAX DUE</u>	<u>GROSS INCOME</u>
	1970	\$ 698.49	\$21,564.09
	1970	18,412.49	45,730.00
	1971	2,859.65	17,026.37
	1970	2,097.74	23,141.52
	1970	413.40	17,299.68
	1970	Not Computed	34,237.81
	1971	" "	31,980.81
	1972	" "	33,129.13
	1970	Not Computed	28,922.59
	1970	964.63	12,028.15
	1971	2,362.94	19,266.74
	1972	1,473.67	15,124.68
	1970	1,173.00	7,441.00
	1971	242.00	3,303.00
	1970	2,414.46	19,555.86
	1971	2,525.91	18,933.82
	1971	3,967.18	18,578.43
	1970	10,617.96	34,698.89
	1971	9,237.04	34,946.52
	1970	1,640.60	12,257.36
	1971	885.58	9,349.50
	1970	119.00	4,050.00
	1971	707.82	7,769.75
	1971	1,013.85	6,897.05
	1972	617.84	\$ 5,141.64

CASES REFERRED TO THE DEPARTMENT OF JUSTICE BY THE OFFICE OF REGIONAL COUNSEL, INTERNAL REVENUE SERVICE, LOS ANGELES, CALIFORNIA, WHEREIN RECOMMENDATIONS FOR PROSECUTION WERE MADE PURSUANT TO INTERNAL REVENUE CODE OF 1954, §§7203 AND 7205, FOR THE YEARS 1970 THROUGH 1973.

RECOMMENDATIONS PURSUANT TO INTERNAL REVENUE CODE OF 1954, §7205, (ALL CASES INVOLVE TAX PROTESTERS)

<u>CASE</u>	<u>YEAR</u>	<u>TAX INVOLVED</u>
	1972 (One count W-4) (Two counts W-4E)	1971 \$ 513.00
	1972	1971 3,123.45
	1972	1971 1,588.85
	1972	1971 1,989.64
	1972	1971 2,871.61
	1972	1971 1,706.00
	1972	1971 1,706.00
	1972	1971 1,972.00
	1972	1971 521.85
	1972-73	1971 1,678.00 1972 No record
	1972-73	1971 577.92 1972 187.19
	1972-73	1971 577.92 1972 187.19
	1972-73	1971 594.31 1972 633.95
	1973	1972 365.64
	1972-73	1971 (78.52) 1972 960.26 1973 1,448.60

EXHIBIT 12

IGRU DATA

<u>District</u>	<u>Number of Entities (Names) 1-15-75</u>	<u>Intelligence Division Investigations Initiated 7-1-73 thru 12-31-74</u>
Augusta	955	1
Portsmouth	961	1
Burlington	574	5
Boston	1421	4
Providence	3511	
Hartford	298	2
Brooklyn	8561	20
Manhattan	8918	27
Albany	1684	
Buffalo	278	45
Newark	6720	12
Philadelphia	6218	6
Pittsburgh	3773	5
Cincinnati	14996	7
Cleveland	29431	
Indianapolis	4403	6
Chicago	89417	4
Springfield	5907	
Detroit	33489	28
Milwaukee	6626	
Des Moines	2680	3
Wichita	4539	
Wilmington	225	
Baltimore	872	
Richmond	460	
Parkersburg	1404	
Greensboro	1072	1
Columbia	26	
Atlanta	2867	8
Jacksonville	17224	51
Louisville	4788	
Nashville	552	5
Birmingham	3414	2
Little Rock	1420	1
New Orleans	1298	
Oklahoma City	6654	1
Austin	8868	3
Dallas	4407	3
Denver	33921	
Albuquerque	3768	5
Phoenix	8944	9
Reno	18118	7
Portland	15062	28
San Francisco	8997	5
Los Angeles	85387	45
TOTAL	<u>465108</u>	<u>350</u>

EXHIBIT 13



MEMORANDUM

August 24, 1971

District Directors
to: Midwest Region
ATTENTION: Chief, Intelligence Division

from: ARC-Intelligence
Midwest Region

subject: Operation Mercury

Transmitted herewith for your information and utilization are detailed listings with respect to the captioned subject. I also am forwarding to you a copy of a letter dated August 11, 1971, received from Acting Director, Intelligence, regarding the listings.

Attachment

Name deleted

RECEIVED

AUG 26 1971

INTELLIGENCE DIVISION
IKS - ST. LOUIS, MO.



memorandum

to: Regional Commissioner, Midwest Region
Attn: ARC-Intelligence

AUG 11 1971

from: Intelligence Division
Washington, D. C. CP:I:P

subject: Operation Mercury

As you will recall, the National Office requested each region to make arrangements for transcribing six rolls of microfilm which contained information relative to the transmission of money orders, in excess of \$1000, during the year 1966. This phase of the operation was completed and punch cards were prepared from the transcription sheets.

The enclosed listings were processed. The information is arranged by state, and payee names are in alpha order by city. The data elements are: payee, to city, state, sender or purchaser, from city, state, amount, date, and reel number.

The source of this information is confidential. The documents were made available to us with the understanding that before we used them for investigative purposes Western Union would be served with a summons, in usual form, describing the documents needed. This procedure must be followed and is referenced in Handbook Section 233.9. We are mailing the microfilm for the year 1966 to the Chief at St. Paul, Minnesota.

We realize that the statute for the year 1966 will soon expire and that the tax year is closed for civil purposes. Therefore, the Chief should make every effort to utilize this information in such a fashion as to achieve maximum benefits. We suggest that this information be matched against open case files, and those names showing substantial activity should be matched against background files.

The strike force representatives should be alerted to the fact that this information is available in the districts.

Deleted
Acting Director:

Attachments

EXHIBIT 14

November 5, 1970

All District Directors 900
Southeast Region

ABC (Intelligence) I
Southeast Regional Office

Operation Bird Dog

Attached is a copy of a memorandum to the Director, Intelligence Division, dated this date, which is self-explanatory.

The list of expensive automobiles from your state observed in Atlanta during the recent prize fight is also attached for your use as leads to possible income tax violations.

Deleted

Acting

Attachments

DD-Atlanta
DD-Birmingham
~~DD~~ Columbia
DD-Greensboro
DD-Jackson
DD-Jacksonville
DD-Nashville

November 5, 1970

Director, Intelligence Division CP:I
National Office

ABC (Intelligence) I
Southeast Regional Office

Operation Bird Dog

The Roaring 20's returned to Atlanta, Georgia, on October 24-28, 1970. People came in sleek limousines, customized automobiles, mink and flamboyant dress for the Muhammad Ali-Jerry Quarry fight on Monday night, October 26. The styles of the 20's prevailed with males challenging the females for the extreme in dress and the brilliance of colors, wearing wide brimmed hats, double-breasted jackets, two-piece suits with coats to the knees and some with full length mink coats.

After observing expensive custom built automobiles at the Regency Hyatt House, Atlanta's swankiest hotel, arrangements were made for the Atlanta District to conduct some old-fashioned bird dogging; that is, the taking of license numbers of the most expensive looking automobiles. The agents reported that the wearing apparel and the automobiles were fantastic with many of the automobiles in the \$20,000 to \$25,000 cost range.

Attached are lists by states (other than Southeast Region) of the more expensive automobiles, with their respective license numbers, that were in Atlanta for this occasion. The list was compiled from automobiles observed at the better hotels and motels where fight fans were lodging and in and around the Municipal Auditorium, the site of the fight.

Also attached are seven copies each of three newspaper articles relative to a robbery of after-fight partygoers. Written invitations were sent out to a large number of persons for the after-fight party at the home of ~~Name deleted~~ a local racketeer who has been engaged in the numbers racket. It is reported that guests were robbed of from \$100,000 to \$200,000 in currency, jewelry and clothing. It should be noted, however, that only the following six of the victims were willing to give their names and file complaints with the Atlanta Police Department:

Director, Intelligence Division CP:I

Name deleted

New York City, N.Y.

Name deleted
New York City, N.Y.

Name deleted
New York City Detective
He said he lost \$485 in cash, a \$175 watch, a
\$5,600 solitary diamond ring and his police
badge, number 359.

Name deleted
Atlanta, Georgia
They lost about \$1,000 in cash and jewelry.

Name deleted
Cleveland, Ohio
He said he lost \$3,250 in cash and jewelry.

Name deleted
Atlanta, Georgia
He was stripped of \$348.

The police reported that several of the nation's top racketeers were among the victims of the holdup and that it was felt that these racketeers would be out searching for the robbers also.

This information is being furnished you for possible distribution to the other regions, or whatever disposition you deem appropriate.

Name deleted

Acting

Attachments

JEM/cj



memorandum

17 NOV 1970

to: Regional Commissioner, Midwest Region
Attention: ARC-Intelligence

from: Director, Intelligence Division
Washington, D. C. CP:I:O

subject: ~~_____~~
Birddogging Operation

Involving: Muhammad Ali-Jerry Quarry Fight

Attached is a copy of a memorandum dated November 5, 1970, from ~~Deleted~~ Acting, ARC-I, Southeast Region, together with the newspaper clippings and lists of automobile license numbers referred to therein.

This information is forwarded for such action you deem appropriate.

Please advise us what disposition was made of this referral or results obtained from any investigation.

R. K. Lund
R. K. Lund

Attachments

11-19-70
St. Louis
Shannon Martin, Acting

RECEIVED

NOV 23 1970

INTELLIGENCE DIVISION
IRS - ST. LOUIS, MO.

[Faint handwritten notes and stamps]

November 8, 1971

Regional Commissioner, Midwest Region
Attention: ARC-Intelligence

Chief, Intelligence Division
St. Louis District

Operation Bird Dog
Involving: MUHAMMAD ALI - JERRY QUARRY Fight
FINAL REPORT

Referenced is made to your memorandum dated November 17, 1970 with attachment of memorandum dated November 5, 1970 of the Director, Intelligence Division, to which was attached a sheet listing five Missouri license numbers noted on expensive automobiles at the ALI-QUARRY fight in Atlanta, Georgia on October 26, 1970.

Inquiry regarding the identity of the individuals that were cited in my Status Report of March 5, 1971 resulted in the requisition of their 1968 and 1969 income tax returns. The investigation revealed that the parties reported sufficient income to warrant their trips to Atlanta, and also indicated that their occupations were such that their trips were more likely to be of a business rather than of a personal nature.

The returns of these individuals, with the exception of ~~Deleted~~ have been returned to the Midwest Service Center. It is believed that the recent returns of Mr. ~~Deleted~~ a professional wrestler, warrant forwarding to the Audit Division for possible examination in that their inspection indicated inadequate taxable income.

Name deleted

Distribution:

Orig. & 1 cc: ARC-I, Midwest Region
1 cc: St. Louis Files

EXHIBIT 15

FORM 1937-A (4-59) (CARBON ATTACHED VERSION OF FORM 1937)

IA

OPERATION BERDDOG

October 1, 1971 DIR:STL:I-3 - TW:em

Springfield Police Department
Springfield, Missouri 65804

Re

Springfield, Missouri 65804

In connection with an official investigation, it is requested that you check your records to determine if the above-named individual has had any arrests by your department.

A self-addressed envelope requiring no postage is enclosed for your convenience.

Thank you for your cooperation.

Name deleted

Special Agent



IRS OPERATION BIRDDOG

Police Headquarters
321 East Chestnut Expressway
Springfield, Missouri 65802
Phone 867-3551

October 11, 1971

Special Agent, **Deleted**
Intelligence Division
Internal Revenue Service
P. O. Box 1546, Central Station
St. Louis, Missouri 63188

Dear Sir:

In reply to your letter requesting information on one
please be advised that in checking our files and the files
of the Greene County Sheriff's Office, we were unable to find a
criminal file on this subject.

We hope this information will be of assistance to you.

Sincerely,

Name deleted
CHIEF OF POLICE
By

Name deleted
Detective
Identification Division

EXHIBIT 16

Examples of Bi-Weekly Reports of Special Service Staff
December 1, 1969

Assistant Commissioner (Compliance)

Paul H. Wright

Biweekly Report - November 15-23, 1969

I. Organizations and Individuals

Three Organizations

Deleted

Review was made of files on these organizations in accordance with procedure formalized in the Escort Organization Branch, Technical, - (O-P, Rev. 13, 1969). Under this procedure, the committee is given an opportunity to see all open Technical case files pertaining to activist organizations. This permits mutually advantageous initial information exchanges wherever exempt organization actions are pending on any entity where committee file data has been accumulated.

Three Organizations

Deleted

Through Liaison established with United States Air Force Intelligence the committee has received information that these organizations are soliciting funds to help draft exiles in Canada and Sweden. Funds are being requested to give financial assistance to draft evaders already in these countries and by bulletins being distributed in quantity on college campuses in the United States, students are being encouraged to become draft evaders.

Assistant Commissioner
(Compliance)

December 1, 1969

A black militant organization and leader deleted

Telephone discussions were held with officials of San Francisco District relative to initiating actions on and as outlined in A/O Committee recommendations of October 20, 1969.

Names of a husband and wife deleted

Copies of sensitive case reports have been received indicating Audit and Collection Divisions actions are underway to effect an orderly disposition of the outstanding deficiency in federal taxes owed by the [deleted by SSCI]

Assistant Commissioner
(Compliance)

December 1, 1969

II. Other Organizations

Three Organizations deleted

Preliminary review has been made of committee data accumulated to date. On the surface it appears each organization should be closely examined, however additional information will be necessary before recommendations can be made.

Assistant Commissioner
(Compliance)

November 1, 1969

III. Other Actions

In response to your suggestion to investigate the possibility of a computer program to capture information on those individuals and organizations that are of interest to Compliance, visits were made to offices of the U. S. Secret Service and Department of Justice. Each of these agencies has a computer program and a master tape file that is compatible with the computers of Internal Revenue. Action is presently being taken to have a program written for use by Compliance and to secure the master tape files of the U. S. Secret Service and Department of Justice that will serve to establish a basic file for Internal Revenue Service.

District office information is now being received on the list of 22 organizations outlined in your memorandum of 10/8/69 to all Regional Commissioners. Data being received is in comprehensive detail and in nearly every instance additional organization names are being submitted as being relevant to this committee's operations. Telephone discussions with District officials reference the list of organizations and to those cases already initiated by the committee reveal that field offices are very pleased this committee is in existence.

There appears to be high acclaim that the charter of this committee will lead to enforcement actions needed to help control an insidious threat to the internal security of this country. Obviously we will receive excellent field cooperation and assistance now that our mission is understood.

(Signed) Paul H. Wright

Paul H. Wright

PBWright:ern 12-1-69

November 2, 1970

Assistant Commissioner (Compliance)

Paul H. Wright

Bi-Weekly Report (Oct. 19-30, 1970)

I. Organizations and Individuals**Black Militant Organization deleted**

During this reporting period a member of the Special Service Group visited the office of the Chief Investigator of the House Internal Security Committee to inspect **deleted** records. The committee had subpoenaed various bank records in the San Francisco area. Arrangements have been made to reproduce certain parts of the records and we will forward them to the San Francisco District for assistance to the revenue agent and special agent assigned to the **deleted** and **deleted** cases.

Two Organizations deleted

We have obtained additional information on both these organizations since we initiated field examinations.

The revenue agent (Washington Field Office) handling the examinations was contacted and he has reviewed, at our suggestion, the voluminous information now in our files. He states our additional file data will materially assist him in both these examinations.

Assistant Commissioner
(Compliance)

Organization deleted

File review is continuing on this case. Photocopies of various copies of tax returns filed by members have been received and are being reviewed at this time to determine if field actions may be warranted. Photocopies of gift tax returns filed by certain sympathizers are also being reviewed.

Two Individuals deleted

Telephone contacts were made with the Los Angeles and Detroit Districts to assist in closing these cases previously initiated by the Special Service Group.

Leftist Individual deleted

A thorough file review was completed but we were unable to determine any lack of compliance with Internal Revenue laws in this case.

II. Other Organizations and Individuals

Five individual case files (besides) were closed as having no revenue potential.

III. Other Actions

Two Individuals and One Organization deleted

The Detroit District has submitted a memorandum report stating they have reviewed the information submitted to them in our proposal for possible Audit action, but have concluded that enforcement action will not result in additional tax liability of "material compliance consequence." This is one of the very few

Assistant Commissioner
(Compliance)

declinations we have received on Special Service Group cases.

We are not questioning the District decision or its right to make the decision, as our referral letters (see copy attached) leave broad option. However, the information available indicates the individuals involved may be under-reporting their income and they are notorious campus and anti-draft activists having arrest records under anti-riot laws. They are the principal officers in the ~~deleted~~ an offshoot of the Students for Democratic Society, and have been identified as members of certain Communist front organizations.

This matter is cited in this report only for the purpose of suggesting that while revenue potential might not be large in some cases, there are instances where enforcement against flagrant law violators would have some salutary effect in this over-all battle against persons bent on destruction of this government.

(Signed) Paul H. Wright

Paul H. Wright

Attachment (our standard letter to Audit or Collection)

PHWright:ern 11-2-70

EXHIBIT 17

FEDERAL AGENCY REQUESTS FOR TAX INFORMATION
CY 74

Income Tax Information Requested by Federal Agencies
Which was Authorized Under 26 CFR 301.6103(a)-1

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Agriculture	4	14	48
Bureau of Alcohol, Tobacco and Firearms	1	2	2
Department of Commerce	2	7	13
Comptroller of the Currency	1	2	2
U. S. Customs Service	1	3	12
Federal Deposit Insurance Corporation	2	14	16
Federal Home Loan Bank Board	5	50	178
Comptroller General (GAO)	3	1,406	1,406 *
Interstate Commerce Commission	2	9	45
Department of Justice (other than U.S. Attorneys)	384	3,228	10,446
United States Attorneys	1,594	4,448	18,062
Department of Labor	1	2	6
Securities and Exchange Commission	19	95	389
Renegotiation Board	1	11	21
TOTALS	2,020	9,291	30,646

* Returns of 710 taxpayers were not furnished but selected information was extracted from the returns by IRS and furnished to GAO.

APPENDIX

QUESTIONS BY SENATOR GOLDWATER TO COMMISSIONER ALEXANDER CONCERNING
IRS ACTIVITIES, AND COMMISSIONER ALEXANDER'S RESPONSES

Question 1. (a) Out of 81 million tax returns that were filed in 1974, about 69 million, or 85 percent, were furnished to tax authorities in 38 States under an Internal Revenue Treaty arrangement. What is the nature of the treaty?

(b) What safeguards, if any, are provided?

(c) What prevents States from distributing personal tax information to lawyers, bankers, credit agencies or any one else?

Response. (a) Under authority of section 6103(b) of the Internal Revenue Code, and under arrangements worked out between the Internal Revenue Service and the National Association of Tax Administrators, the Service makes available, each year, a selected list of data elements in magnetic tape mode taken from our Individual Master File (IMF). These data show taxpayer identity and certain income and tax information for individuals filing Federal individual income tax returns. Our Federal-State Agreements on Coordination of Tax Administration provide a means for formalizing the efforts of the Service and the States to continue their cooperative programs and to enter into additional arrangements for improving the administration and enforcement of tax laws of each respective jurisdiction. A copy of one of our recent agreements, with the State of Ohio, is attached (Attachment 1. See page 106.)

(b) Each year, when notices are sent out to the States informing them of the current year program for tape extracts from our IMF, copies of the Service's Publication 664, *Federal-State Exchange Program*, containing a detailed listing of the participating States' data usage responsibilities, and a reminder of the penalties for unauthorized disclosure of Federal tax return information, are also furnished. (Copies of this publication are available as IRS Publication 664.) Additionally, our Federal-State agreements contain similar provisions for safeguarding Federal tax return information.

(c) State employees are subject to the same penalties, under section 7213(a) of the Internal Revenue Code, for unauthorized disclosures of Federal tax return information as are Federal employees. These penalties provide, upon conviction, for a fine of not more than \$1,000 or imprisonment of not more than 1 year, or both, together with the costs of prosecution. State tax personnel using Federal tax return information furnished them on magnetic tape are reminded of these penalties in the aforementioned Publication 664.

Question 2. Why was it necessary to suspend operation of the Information Gathering and Retrieval System earlier this year? What changes were made?

Response. These information gathering activities were suspended by telegram on January 22, 1975. These activities were suspended to allow a review of our procedures when it was alleged that some employees were collecting and retaining non-tax-related items.

After a review of our procedures, I issued new guidelines for information gathering in Manual Supplement 39G-152 on June 23, 1975. This document is available to the public. The new guidelines were issued to afford clearer definition of tax related data. They also require management involvement through prior authorization in writing before an agent can gather or retain information. The new procedures also require stringent review of information gathering activities. A copy of the new guidelines is attached (Attachment 2. See page 116.)

Question 3. What is your electronic surveillance program in which telephone calls are monitored?

Response. The Service has a program for taxpayer assistance in which telephone calls are occasionally monitored by a supervisor or designated Taxpayer Service Representative to see if correct answers are being given in a courteous manner. However, "electronic surveillance" would not be an appropriate term to describe this program. When monitoring taxpayer assistance calls, the identity of the taxpayer is not even known unless he volunteers it, or unless the question is so complicated that it cannot be answered without some research. In the latter situation, it is more practical for IRS to call the taxpayer back when the answer has been found, so we would ask for the taxpayer's name and phone number in such cases.

Except in a call-back situation, no notes of the conversation are held, and in no case are conversations recorded in any way. Since the purpose of the monitoring is to oversee the quality of the answers and the manner in which our em-

ployees deal with the public, a specific instance of monitoring is done without the employee's knowledge, even though all employees who serve in the taxpayer assistance program understand that the monitoring occurs as a regular practice.

So that taxpayers are aware that telephone calls in taxpayer service offices are monitored, we have highlighted the following statement on the front page of the tax package sent out to all taxpayers at filing time: "To help us provide courteous responses and accurate information, IRS supervisors occasionally monitor telephone calls. No record is made of the taxpayer's name, address, or social security number except where, at the taxpayer's request, a followup telephone call must be made."

As a matter of Service policy, the use of electronic devices to intercept telephone conversations without the consent of at least one of the parties to the conversation, frequently referred to as "wiretapping," is absolutely prohibited. In our investigations of suspected illegal activity, we do on occasions use the legally permissible technique of intercepting telephone conversations by the use of electronic devices if at least one of the parties to the conversation consents. Such instances are strictly controlled and require the approval of an IRS official designated by the Commissioner.

Question 4. Was the formal establishment of the Special Service Staff really an extension of the checking that was started on the 22 extremist groups in 1961 and later expanded to include 25 more in 1963?

Response. Although the Special Service Staff activities were similar in some respects to the checking that was started on extremist groups in 1961 and 1963, the Special Services Staff was not an extension of the earlier activity.

As noted in the June 5, 1975 staff report of the investigation of the Special Service Staff for the Joint Committee on Internal Revenue Taxation, the examination which began in 1961 of the 22 organizations was largely completed in 1963. The examination which began in 1963 of the 25 organizations was completed, for the most part, in 1966.

In November of 1967, a status report on the cases involving these organizations was given to Commissioner Sheldon Cohen. The report noted that the major purposes of the study were fulfilled early in 1966. The Joint Committee Report says that Commissioner Cohen told of his decision to wind down the project, putting such examinations back into the normal channels, after he became Commissioner (January, 1965 to January, 1969).

The origins of the Special Service Staff were in the summer of 1969. The reasons for its creation are accurately discussed in the Joint Committee staff report of investigation.

Question 5. In 1974 more than 8,000 Federal income tax returns were made available to other Federal agencies for police work. Did the IRS receive adequate assurances that these returns were being used for law enforcement purposes? Was there any checking?

Response. Treasury regulations require that requests for tax information from Federal agencies must state the reason for the request, and only if this and all other requirements under the regulations are met is authorization granted. Most requests contain paragraphs similar to the following:

"Unless it is determined that such documents should be filed with the Court or otherwise used in evidence in such case, access thereto, on a need-to-know basis, will be limited to those attorneys or employees who are actively engaged in the case. Under no condition will they be made public except to the extent that publicity necessarily results if they are used in litigation. Persons having access to these documents will be cautioned as to the confidentiality of the information contained therein and of the penalty provisions of Section 7213 of the Internal Revenue Code and Section 1905, Title 18, U.S.C., regarding the unauthorized disclosure of such information."

In addition, all our responses contain a paragraph which reminds the requester that the information is being furnished only for the purpose for which it was requested and again reminding them of the penalty provisions of the Internal Revenue Code. Although we do not check further to see how the information is being used (or have the resources or ability, as a practical matter, to do so), it should be noted that all federal employees are subject to the sanctions contained in the Code (fine up to \$1,000 or imprisonment up to one year, or both). We also feel it is the responsibility of the agency to ensure that an unauthorized disclosure is not made of the information it has received.

ATTACHMENT 1

AGREEMENT ON COORDINATION OF TAX ADMINISTRATION WITH THE STATE OF OHIO PROVIDED TO THE SENATE SELECT COMMITTEE BY COMMISSIONER ALEXANDER

The State of Ohio and the United States Internal Revenue Service, U. S. Department of the Treasury, recognize the mutual benefits to be derived through coordination of their tax administration programs to secure returns, determine tax liability, and effect collection of taxes; and the parties, updating and renewing their agreement of December 28, 1971, do hereby agree to continue cooperative programs already established and to enter into additional arrangements designed to improve the administration and enforcement of the tax laws of their respective jurisdictions. With these objectives, officials of the State, acting under authority vested in or delegated to them to administer State tax laws, and the District Director and other appropriate officials of the Internal Revenue Service will consult from time to time regarding their respective enforcement facilities and problems, and will establish mutually agreeable programs for the exchange of information and assistance.

1. Basis for Instituting Actions -- This agreement provides the general basis for achieving the stated objectives in the coordination of tax administration and the general nature of the actions to be taken in accordance with these objectives. Specific arrangements to achieve these objectives will be initiated in a manner and at such time as is mutually agreeable to the appropriate State and Internal Revenue Service officials. They shall explore and adopt mutually acceptable techniques and modes of exchange which will be most beneficial to improved tax

administration, with least possible interruption to their respective operating routines, and with strict adherence to rules, regulations, and laws for protecting the confidentiality of tax returns and tax return information. To this end, they will seek to attain the maximum exchange of data by electronic and mechanical means.

2. Inspection of Tax Returns -- This agreement shall constitute the requisite authorization for designated personnel of the Internal Revenue Service to inspect all classes of State tax returns. This agreement shall also constitute the requisite authorization for designated tax personnel of the State to inspect income, estate, gift, employment, excise, and all other classes of Federal tax returns administered by the Internal Revenue Service (except the return relating to the occupational tax on coin-operated devices, Subchapter B of Chapter 36), for the purpose of administering State tax laws or for the purpose of furnishing information to local tax officials for use in administering local tax laws.

This authorization shall continue in effect until such time as the Commissioner of Internal Revenue, by written notice to the Governor, provides that such inspection will be permitted only on the basis of periodic applications therefor. The inspection of Federal returns pursuant to this authorization will be for the purpose of administering the following State tax laws: personal property tax, franchise tax, income tax, estate tax, excise tax and all other State tax laws.

As a prerequisite to inspection by State tax personnel of Federal returns or receipt of related information, the Governor agrees to furnish to the District Directors of Internal Revenue at Cincinnati and Cleveland a list showing the names, official titles, and the social security numbers of all State tax personnel designated by the Governor to inspect Federal tax returns or receive related information. Such list will note whether any State tax personnel so designated are limited to the inspection of certain classes of Federal tax returns or related information. Additions to and deletions from the list will be furnished as they occur. Likewise, information concerning Internal Revenue Service personnel designated to inspect State tax returns or related information shall be furnished to the State in the form and manner requested by the State.

Federal tax return or taxpayer name and address information may be furnished by State tax authorities to tax officials of a political subdivision of the State for use in administering the tax laws of such subdivision only after the Governor has requested and obtained written authorization from the Commissioner of Internal Revenue. Any request for such authorization shall state the official titles of the local tax officials who will receive the tax return information, shall indicate the specific data to be furnished, and shall refer to the local tax laws which such officials are charged with administering. Any such authorization is conditioned on the agreement of the State to furnish to local tax officials only such tax return data as is directly pertinent and essential to the administration of the local tax laws, to ensure that such local officials establish and enforce adequate safeguards to prevent

unauthorized use or disclosure of such information, and to maintain a list of the names of the local tax officials to whom the information is furnished.

3. Delinquent Returns and Collection of Taxes -- Under such arrangements as may be practicable and feasible, the appropriate State and Internal Revenue Service officials will furnish each other information which will assist in locating the whereabouts, sources of income, employers, or real and personal property of persons whose tax accounts are delinquent. Additionally, they will exchange lists of taxpayers and other information relevant to the identification of persons who have failed to file tax returns.

4. Cooperative Audits and Audit Adjustments -- Within the framework of available enforcement resources, the appropriate State and Internal Revenue Service officials will develop cooperative return selection and examination programs with the objective of minimum duplicate audit effort, increased Federal and State audit coverage and minimum taxpayer contact. They will furnish each other, in accordance with mutually agreed schedules and routines, information on audit adjustments made by their respective offices, and such other information as will assist in determining final tax liability.

5. Scope of Exchange -- Other information relevant to the administration of State and Federal taxes may be exchanged, if feasible, under

arrangements made by the appropriate State and Federal tax officials. Such information may include, but shall not be limited to, lists, magnetic tapes, transcripts or abstracts pertaining to: (a) taxpayer identity and address, and tax return and related data; (b) tax refunds and rebates; (c) registrations of automobiles, trucks, tractors, and other highway motor vehicles; (d) distributors and suppliers of motor fuels and special fuels; (e) organizations exempt from taxes under State or Federal law and revocation of exempt status; (f) individuals, partnerships, and corporations engaged in a specific type of business or profession; (g) incorporations and dissolutions of corporations; (h) valuations and appraisals of real or personal property; (i) inventories of lock boxes of decedents; (j) employers, together with their addresses and identification numbers; (k) data relating to the production, processing, and transportation of fossil fuels, minerals, and other natural resources; and (l) other data, including information relating to the regulation of tax return preparers, which the appropriate State tax and Federal tax officials may deem to be useful in tax administration.

6. Other Cooperative Activities -- In addition to the exchange of tax information, State and Internal Revenue Service officials will, to the extent feasible, extend to each other assistance in other tax administration matters. This may include such activities as taxpayer assistance, stocking tax forms for the public, training of personnel, special statistical studies and compilations of data, development and improvement of tax administration systems and procedures, and such other activities as may improve tax administration.

7. Limitations -- The extent of exchange of tax return and related information between the Internal Revenue Service and the State is conditioned upon similarities in tax structures and rates, statutory authority, regulations, administrative procedures, and available resources. Differences in the two tax systems will be taken into consideration in determining the extent of the exchange.

All tax information furnished pursuant to this agreement, irrespective of the manner, form or mode, shall be used solely for the purpose of tax administration. No person shall disclose any information acquired by him to any person in any manner whatever not provided by law.

Information generally will not be furnished respecting any case in which prosecution is pending or is under consideration, but may be furnished after the criminal aspects of a case have been finally disposed of, irrespective of the method of disposition.

Because some taxpayers may be unaware that State tax officials are authorized under Federal law to obtain Federal tax return information for State or local tax administration purposes, letters to taxpayers from the State or its political subdivisions will clearly state that such information was obtained pursuant to law.

State tax officials may not disclose any Federal tax return or return information to tax officials of any other State, or to political

subdivisions of any State, without written authorization from the Commissioner of Internal Revenue.

8. Officials to Contact for the Obtaining of Information --

Requests by the State for tax return information in magnetic tape mode will be made to the Commissioner of Internal Revenue, attention ACTS:A. Requests for physical inspection or copying of Federal tax returns showing addresses within the State will be made to the Director, Internal Revenue Service Center, 201 West Second Street, Covington, Kentucky 41011; requests for inspection and copying of audit abstracts and reports pertaining to such returns will be made to the District Directors at Cincinnati and Cleveland, who will be responsible for making proper arrangements for such inspection. For tax returns showing addresses outside the State, the requests will be made by the Governor to the Commissioner of Internal Revenue, attention CP:D. Requests by Internal Revenue Service personnel for inspection or copying of State tax returns and related documents will be made to the Tax Commissioner of Ohio.

9. Protecting the Confidentiality of Tax Returns -- The State of Ohio and the Internal Revenue Service recognize their mutual responsibilities to protect the confidentiality of tax return information, as provided by law, and to assure that such information is disclosed only to those persons, and for such purposes, as are authorized by law. In recognition of these responsibilities, each

party to this agreement shall, when requested by the other party, review with the other party its safeguard measures to protect the confidentiality of tax return information made available to it under Federal-State cooperative exchange programs.

The State or Federal tax officials, as appropriate, having custody of tax return data made available to them under this agreement -- whether in hard copy, photocopy, magnetic tape or other form -- shall take all steps necessary to insure that the safeguard measures established for protecting its confidentiality are carried out. These measures include establishing and maintaining a secure area or place in which the return or return information exchanged shall be stored, restricting access to the return or return information only to those officials and employees having a need for access to such return or return information, and providing such other safeguards as are deemed necessary or appropriate or as may be reasonably requested by the party furnishing the information.

Processing of Federal tax return information on the magnetic tape file (including tape reformatting or reproduction, or conversion to punch cards or hard copy printout) will be performed only under the immediate supervision and control of authorized employees of the State tax authority, in a manner which will protect the confidentiality of the information on the file.

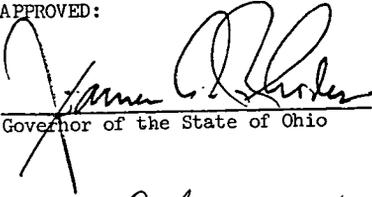
The State agrees that it will destroy copies of Federal returns or return information in its possession after they have served their purpose.

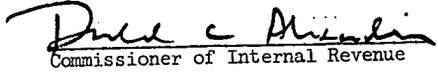
The Governor hereby designates the Tax Commissioner of Ohio to be responsible for maintaining the safeguards necessary to preserve the confidentiality of Federal tax return information in the hands of State, and if applicable, local tax authorities, and for maintaining the list of local tax officials to whom information is furnished.

10. Termination, or Modification, of Agreement -- The provisions of this agreement are subject to the provisions of the Internal Revenue Code and Regulations, and to the provisions of State statutes and regulations, and this agreement may be terminated or modified at the discretion of the Commissioner or of the Governor on account of changes in Federal or State statutes and regulations or whenever in the administration of Federal or State tax laws that action seems appropriate.

Any unauthorized use or disclosure of tax returns or data therefrom furnished pursuant to this agreement, or inadequate procedures for safeguarding the confidentiality of such returns or data, also constitutes grounds for the immediate termination of this agreement and the exchange of information thereunder.

APPROVED:


Governor of the State of Ohio


Commissioner of Internal Revenue

Signed at Columbus, Ohio
this 19th day of June, 1975.

Signed at Washington, D. C., this
20th day of March, 1975.

ATTACHMENT 2

INTERNAL REVENUE SERVICE MANUAL SUPPLEMENT

June 23, 1975

Information Gathering GuidelinesSection 1. Purpose

.01 This Supplement implements Policy Statement P-1-1 (Approved 6-23-75), attached, and provides guidelines for the gathering of information that may be solicited, obtained and retained for use by Service personnel as background material prior to the assignment of a case for collection, examination or investigation.

.02 These guidelines are not intended to alter in any way the gathering, solicitation and documentation of tax related facts and evidence necessary in developing cases that have been assigned for collection of taxes, examination or investigation of a tax liability.

Section 2. Background

.01 Compliance with the tax laws which the Service is authorized and directed to enforce cannot be determined solely by reference to the information on returns and documents filed with the Service. Therefore, the Service must obtain information from outside sources for the effective administration of the tax laws.

.02 Information gathering activities which were suspended by telegram to All Regional Commissioners on January 22, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 91RDD-7, CR 41RDD-18 and 51RDD-20 and 71RDD-1) and by telegram to All Regional Commissioners, District Directors and Service Center Directors on February 7, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22, and 71G-3) may be resumed in accordance with the guidelines and definitions set out in this Manual Supplement.

Section 3. Record Retention and Destruction

.01 No information documents of any type presently on hand or hereafter acquired in the Service concerning Intelligence Information Gathering, Joint Compliance Program, Coordinated Compliance Projects and Returns Compliance Program will be destroyed until the Senate Select Committee and all other official reviewing bodies complete their investigations of intelligence activities carried out by or on behalf of the Federal Government. The suspension of destruction procedures does not preclude use of such information for civil or criminal tax administration purposes, provided such use does not include destruction. Instructions concerning records disposition will be issued as soon as the investigations are completed.

.02 District Directors will ensure that documents and information relating to or arising from information gathering activities (including projects and programs), whether solicited or unsolicited, which are not necessary to the administration of the tax laws and do not indicate a violation of a Federal law enforced by another agency will be segregated and placed in a separate storage area with access limited to Division Chiefs. To the extent practicable, the data should be filed according to taxpayer name. An index of all documents from the discontinued Information Gathering and Retrieval System should be retained. These records may be transmitted to the Federal Records Center, or destroyed in accordance with IRM 1(15)59, when the Congressional investigations specified in Section 3.01 are concluded.

.03 Directly tax related documents (defined in Section 4) remaining after the review specified in Section 3.02 shall be maintained in accordance with the provisions of these guidelines.

Section 4. Definitions

.01 The term "directly tax related information" means only documents, statements, facts and testimony which reasonably relate to or aid in determining the correct tax liability of the taxpayer. Noncompliance may be indicated by such information as:

- 1 Personal expenditures or investments not commensurate with known income and assets;
- 2 Receipt of unreported income;
- 3 Overstatement of itemized deductions, business expenses, cost of sales, tax credits, etc.;
- 4 Improper deduction of capital or personal and living expenses;
- 5 Failure to file required returns or pay tax due;
- 6 Omission of assets or improper deduction or exclusion of items from estate and gift tax returns;
- 7 Violations of conditions and requirements relating to tax exempt status of organizations;
- 8 Improper operation of a qualified employee plan and trust; or
- 9 Other actions substantially similar to 1-8 above.

.02 The above factors do not stand alone, but should be considered in light of the taxpayer's occupation, prior accumulation of wealth and data shown on tax returns and the results of prior examinations or investigations. Prudent judgment must be exercised in making the decision whether types of information in 4.011-4.019 are directly tax related.

.03 Documents and data relating to agents' daily activities, time reports and other case management and internal management documents are not considered to be background material or taxpayer related information and may be retained for management purposes.

.04 The following definitions of other terms apply to these guidelines:

1 A "case" is an accumulation of facts concerning a taxpayer, which are segregated and associated with the taxpayer's name and evaluated for potential assignment to an employee for appropriate action.

2 An "assigned case" is a case that has been assigned to an employee or group of employees for action and that is subject to a requirement for a written report or an entry in a log indicating the action taken when the case is completed.

3 A "case file" is the accumulated notes, documentation and information assembled as a result of Service inquiries of and about a taxpayer which contains the taxpayer's name or identifying number or symbol assigned to the taxpayer.

4. An "informant's communication" is a communication from anyone outside the Service, written or oral, voluntarily submitted to the Service identifying one or more taxpayers and providing some information about the taxpayer. The informant may be anonymous.

Section 4 -- Contd.

5 A "project" is a study, survey or canvassing activity involving a limited number of taxpayers within such categories as an occupation, an industry, a geographic area or those involved in a specific economic activity, undertaken to identify noncompliance with the tax laws.

Section 5. Broad Service Guidelines Governing All Functions (Except Inspection)

.01 District employees are encouraged to continue to be alert for indications of tax noncompliance which come to their attention. Audit, Collection, EP/EO and Intelligence employees will report such information as provided in their respective sections of this Supplement. All other employees will report such information via memorandum through channels to the Chief, Intelligence Staff at the appropriate Service Center.

.02 Indications of noncompliance identified by Service Center, Regional and National Office employees will be forwarded to the Chief, Intelligence Staff at the appropriate Service Center.

.03 Information received by Service employees, which indicates a violation of a Federal law enforced by another agency, will be forwarded through channels to the Director, Intelligence Division, for forwarding subject to disclosure provisions, to the appropriate agency. (Reference IRM 9382.4).

.04 No employee shall maintain background or historical files on taxpayers except where such files are an integral part of the case file pertaining to a currently assigned case, unless specifically authorized to gather information as provided in Section 8.03.

.05 Employees assigned to a project involving information gathering must ensure that all information received is included within the project files.

.06 Employees assigned to projects or individual information gathering may obtain information from sources outside the Service for purposes of verifying the filing of required returns, payment of tax, exempt status, proper reporting of income, deductions or credits, or otherwise determining compliance with the tax laws. However, the information obtained must be directly tax related and necessary to the administration of the tax laws. (See Sections 4.01 and 4.02).

.07 The Information Index System will be used whenever it is necessary to index information.

.08 Any employee who receives information concerning Service employee misconduct will forward the information directly to Inspection.

.09 Informants' communications will be forwarded to the Chief, Intelligence Division for transmittal to the Chief, Intelligence Staff at the appropriate Service Center. The informants' communications will be evaluated by appropriate personnel at the Service Centers.

.10 Informants' communications concerning violations of other Federal laws will be forwarded by the Chief, Intelligence Staff, subject to disclosure provisions, to the appropriate agency.

.11 Information received which is not directly tax related and does not indicate a violation of other Federal laws will be segregated and stored, as provided in Section 3, for disposition when instructions are issued.

Section 6. Responsibilities

.01 Assistant Commissioners will provide for an annual review of each region's information gathering activities as a part of the National Office Review Program (NORP) to ensure compliance with Service policy and these guidelines.

.02 Regional Commissioners will provide for a review of each district's information gathering activities in their semi-annual visitations to the districts to ensure compliance with Service policy and these guidelines.

.03 District Directors are responsible for the approval of all district information gathering projects. While the Chief, Intelligence Division may authorize information gathering on specific taxpayers outside the scope of projects as and to the extent provided in Section 8.03, the District Director shall provide for quarterly reviews of all information gathering activities on projects and specific taxpayers, to ensure compliance with Service policy and these guidelines.

.04 Each employee is responsible, in the interest of safeguarding taxpayer privacy, for ensuring that information other than that necessary for the administration or enforcement of the tax laws is not solicited, indexed or associated with the name or other identifying symbol of a taxpayer. (See Section 3.02 for the disposition of any such information described therein as may be or may have been received.)

Section 7. Initiation of Projects to Determine Taxpayer Compliance

.01 Projects, as defined in Section 4.045, must be authorized in writing by the Assistant Commissioner, Regional Commissioner or the District Director. Authority to initiate projects may not be redelegated.

.02 Authorizations for projects must state the purposes and define the scope of the project. Project activities may include obtaining and analyzing data from sources outside the Service, but only information meeting the requirement of Section 4 may be sought, obtained, indexed and analyzed. Authorizations must also specify the estimated life of the project and specifically state what type of information is to be indexed.

Section 8. Intelligence Division Procedures

.01 The Intelligence Information Gathering and Retrieval System (IRM 9390) is discontinued. All districts will utilize the Information Index System, which will be described in a separate Manual Transmittal, to file and index directly tax related information. Such tax related information now in the discontinued Information Gathering and Retrieval System may be retained in district files and indexed only if it relates to a taxpayer included in an authorized project or for whom the Chief, Intelligence Division, has authorized information gathering.

.02 Where authorized by an Assistant Commissioner, a Regional Commissioner, or a District Director, projects, as defined in Section 4.045, may be initiated for the purpose of identifying taxpayers involved in tax evasion or other criminal violations of the Internal Revenue Code. The authorization for a project may identify one or more taxpayers at the outset for information gathering activity and additional taxpayers may be identified as the project progresses. Immediately upon termination of the information gathering phase of the project any information not associated with the case file of a taxpayer must be removed from the Information Index System and destroyed unless it relates to a taxpayer for whom information gathering has been specifically authorized by the Chief as provided in Section 8.03. (Note, however, that Section 3.01 prohibits destruction pending the completion of certain inquiries. Information removed will be stored in the district until this suspension is released.)

Section 8 -- Contd.

.03 In addition to project information gathering, the Chief, Intelligence Division, may authorize individual employees to obtain information on a specific taxpayer who is or appears to be involved in activities which have tax significance for purposes of making a decision as to whether or not to initiate an investigation. This authority may not be redelegated. The Chief's authorization must be made in advance of the information gathering activity. Only information or data directly related to administration of the tax laws which the Service is authorized and directed to enforce will be solicited or indexed, as specified in Sections 4.01 and 4.02. The Chief, Intelligence Division, may authorize only information gathering activities which relate to a taxpayer of interest to that district. The district's interest may be the result of the taxpayer filing returns in the district, residing in the district or having a principal business or other economic activity in the district. In the event the interest of another district becomes apparent, the Chief will coordinate with the other district or districts to establish which district has the principal interest. That district will, thereafter, control information gathered and coordinate information gathering activity relating to that taxpayer.

.04 When the Chief, Intelligence Division, approves the gathering of information relative to a specific taxpayer (described in Section 8.03) the Information Index System will be used to index the information. The authorization of the Chief must be in writing and must specify the known or assumed identity of the taxpayer and the reason information gathering has been authorized. The written authorization will be indexed.

.05 Information gathered pursuant to Section 8.03 will be maintained at the location specified by the Chief, Intelligence Division. The information may be maintained in the custody of the employee authorized to gather the information. The employee will be responsible for preparing the necessary forms to enter the authorization and each item of information gathered in the index.

.06 The Chief, Intelligence Division or Assistant Chief will conduct quarterly reviews of samples of information gathered and entered into the Information Index System to ensure that only directly tax related information is being retained and indexed and that information no longer needed by the Service is being removed from the Information Index System to be destroyed or retired to the Federal Records Centers. A written record of the quarterly reviews will be submitted to the District Director who will review them.

.07 Information obtained during the course of an assigned project or investigation indicating a violation of a Federal law enforced by another agency will be forwarded to the Director, Intelligence Division for transmittal to the appropriate agency in accordance with the disclosure provisions (Reference IRM 9382.4) and the Privacy Act when effective.

.08 Information in the Information Index System may not be retained in the System for a period longer than six years except that, with the approval of the Chief, Intelligence Division, specific information may be retained for a longer period if it has continuing material significance to a taxpayer's tax affairs. Information in the System will be removed and associated with the taxpayer's case file when a case is assigned. All other information removed from the System will either be destroyed, or retired to the Federal Records Center, in accordance with the provisions of IRM 1(15)59, Records Control Schedule 207, Intelligence-Regional and District offices when the restrictions in Section 3 have been rescinded.

.09 Intelligence employees who learn of indications of tax noncompliance will report information on Form 3949 or, if authorization to gather information is being requested, by memorandum, through appropriate management channels, to the Chief, Intelligence Division.

.10 Special Enforcement files are eliminated. The National Register is discontinued and Forms 4860, National Register Input Form, will no longer be prepared.

Section 9. Audit Division Procedures

.01 All Audit employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly tax related information is sought. Employees will not maintain any individual files or background information on taxpayers other than project files which they have been specifically authorized to maintain by the District Director.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by Audit employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by Audit employees will be forwarded with Form 4298, Audit Requisition and Information Report, to the Returns Program Manager for processing. Group Managers will ensure that only directly tax related information is forwarded. Information indicating a violation of a Federal law enforced by another agency will be forwarded through channels to the Director, Intelligence Division for transmittal to the appropriate agency subject to disclosure provisions.

.04 All Forms 4298 not selected by the RPM will be batched and sent to the Service Center Files Management Unit for association with the returns. All Forms 4298 selected by the RPM will be handled as provided in IRM 4175 and will remain with the tax return upon disposition by Audit.

.05 Information received indicating noncompliance by a large number of taxpayers should be forwarded through channels to the Chief, Audit Division, and as appropriate, to the District Director, the Assistant Regional Commissioner (Audit) or Director, Audit Division, for consideration and appropriate action.

.06 Joint Compliance, Coordinated Compliance and similar programs will continue. Projects now in progress will be completed and new projects may be initiated if approved by Assistant Commissioners, Regional Commissioners or the District Director. The provisions of this Supplement do not change program reporting requirements on retention or indexing of information. Care should be exercised to ensure that only directly tax related information is sought.

.07 Information necessary for the determination of comparable sales prices, appropriate intercompany pricing practices, allocation of income and expenses, useful life of assets and similar data necessary to sustain Service positions on valuation and costs allocation matters may be obtained and retained for use as reference material. Such material is to be used by examiners in arriving at timely, fair and reasonable determinations and is not to be indexed and associated with the name or other identifying symbol of a taxpayer.

.08 The historical files used in the Large Case Program are considered a part of the case file.

Section 10. Collection Procedures

.01 The Collection function will continue on-going activities in the Returns Compliance Program area. New programs initiated at the National, regional or local levels will require the approval of the Assistant Commissioner, Regional Commissioner or District Director, respectively. Returns Compliance Programs may involve obtaining lists of tax-

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payers' names and addresses and other general information which identifies groups of taxpayers who are probably required to file particular tax returns. Other types of Returns Compliance Programs may involve direct contact with individual taxpayers to assure compliance with specific filing requirements. Employees will not maintain any individual files or background information on taxpayers.

.02 Only directly tax related information will be obtained in the Returns Compliance Program.

.03 Information gathered for the purpose of generating Returns Compliance Program leads is normally retained for a relatively brief period until this purpose has been accomplished, and then destroyed as soon as permitted under Section 3.02.

.04 Returns Compliance leads assigned for field follow up will be considered as "assigned cases" and, as such, come under the exclusions in Section 1.02.

.05 Collection employees who learn of indication of tax noncompliance will report the information to Audit or EP/EO on Form 3449, Referral Report. If potential fraud is indicated, the information will be reported to Intelligence on Form 3949, Intelligence Information Item, unless the referral resulted from an assigned case where Form 3212, Referral Report, will be used. Information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division.

.06 Actions that are deemed necessary to verify the current compliance of previously delinquent taxpayers or taxpayers for whom the Service believes such verification is necessary, will be considered delinquency prevention actions. Such actions will be considered assigned cases and will be documented as outlined in 4.042.

Section 11. Employee Plans and Exempt Organizations Procedures

.01 All EP/EO employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly related information is sought. Employees will not maintain any files or background information on taxpayers or organizations.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division, on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by EP/EO employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by EP/EO employees will be forwarded with Form 4298 to the Chief, EP/EO Division, for processing. Group Managers will ensure that only directly tax related information is forwarded. Any information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division for appropriate disposition pursuant to Section 5.

.04 The Chief, EP/EO Division, or an appropriate designee, will promptly screen all Forms 3949 and 4298 received. Forms 4298 not involving exempt organizations, exempt status of an organization or employee plans will be forwarded to the Returns Program Manager, Audit Division, for the district office servicing the principal place of business of the taxpayer. If it is determined an exempt organization or employee plan return is to be secured, the return will be requested from the service center and the information associated with the return. If the return does not warrant selection for examination because of prior

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year returns, workload capacity or other factors, the Form 4298 and return will be sent back to the service center. However, if the information relates to a taxable period for which no return is due or one for which the organization does not have to file a return, such Form 4298 will be placed in a suspense file until the return is filed and secured, or until the accumulated information warrants compliance action. Any instances of apparent failure to file will be referred to the Collection function.

.05 Projects as defined in Section 4.045 may be initiated when authorized by an Assistant Commissioner, the Regional Commissioner or by the key District Director. Care should be exercised to ensure that only directly tax related information is sought.

.06 Reports, comments or exchanged information required under the Employee Retirement Income Security Act of 1974 (Public Law 93-406) are not considered informants' communications.

.07 The historical files used in National Office Controlled cases in the Exempt Organization Program are considered a part of the case file. Similarly, the administrative files of employee plans and exempt organizations which contain information, such as application for recognition of exempt status, determination letters issued and workpapers from prior examinations, are considered as part of the case file.

Section 12. Effect on Other Documents

.01 This supersedes Manual Supplement 91RDD-7, CR 41RDD-18, 51RDD-20 and 71RDD-1, dated January 31, 1975 and Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3, dated February 20, 1975 and Amendment 1 thereto. Annotations made at IRM 42(14)0, 4568, 5(12)40, 9311, 9330 and 9390 referring to Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3 should be removed.

.02 This amends and supplements IRM 4175, 42(14)0, 4568, 4569, 5(12)40, 6100 (to be issued), 7100 (to be issued), 9311, 9330, and 9413. This "effect" should be annotated by pen and ink beside the text cited with a reference to this Supplement.

.03 This supersedes IRM 9390 which will be revised and reissued as soon as possible.

Donald C. Alexander
Commissioner

Attachment

Attachment to MS 93G-152, CR 1(15)G-91, 41G-105, 42G-328, 45G-231, 51G-118, 5(12)G-25, 61G-3, 71G-9, 91G-33 and 94G-57

P-1-1 (Approved 6-23-75)

Mission of the Service

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to conduct itself so as to warrant the highest degree of public confidence in its integrity and efficiency. The Service should advise the public of its rights and responsibilities, determine the extent of compliance and the causes of noncompliance, and do all things needed for proper administration and enforcement of the tax laws.

Programs and facilities to be established to accomplish Service mission

In order to fulfill this mission, the Service must establish programs and facilities for receiving and processing returns, for collecting all taxes due, for auditing, for detecting fraud and delinquency, for hearing and adjudicating appeals, for providing taxpayer assistance and information, for recruiting persons with a professional outlook and maximizing their ability to perform through training in both the ethical and professional aspects of their jobs, for developing evaluation methods designed to measure these aspects, for the uniform interpretation and application of the tax laws, for the preparation of regulations and tax guide materials, for clarification and simplification of tax rules, for maintaining the integrity of the Service and its efficient operation, and for performing such other duties as may be required by laws and regulations.

Taxpayer privacy will be safeguarded in the acquisition and use of information

Since compliance with Internal Revenue laws cannot be determined solely with reference to information on returns and documents filed with the Service, the Service will obtain information from outside sources. However, only information necessary for the enforcement and administration of the tax laws which the Service is authorized and directed to enforce will be sought. To safeguard taxpayer privacy, any information received by the Service, other than that described in this paragraph, will not be indexed or associated with the name or identifying symbol of a taxpayer. No disclosure of information will be made except as provided by law.

Approved by:

Donald C. Alvarado
Commissioner

Date:

June 23, 1975

